

**Conference for Food Protection
2014 Issue Form**

**Internal Number: 012
Issue: 2014 I-026**

Council Recommendation:	Accepted as Submitted _____	Accepted as Amended _____	No Action _____
Delegate Action:	Accepted _____	Rejected _____	

All information above the line is for conference use only.

Title:

Automatic Ice Vending Machines

Issue you would like the Conference to consider:

Self-service, coin-op or credit card type automatic ice producing and packaging machines are proliferating rapidly. These food vending machines are operated as stand alone-unattended and unlicensed FOOD ESTABLISHMENTS.

Public Health Significance:

Ice is a non-temperature controlled for safety FOOD. Unlicensed operators of remote unattended vending machines sold an estimated \$70,000,000 dollars of bulk-packaged ice in the U.S.. in 2013. Because these food-vending operations are unlicensed in most jurisdictions, there is no plan review or inspection to ensure the ice is made from DRINKING WATER, nor is there a regulatory check to ensure the equipment has appropriate back-siphonage and that food contact surfaces have a reasonable cleaning and sanitization frequency to prevent food adulteration. These remote self-service ice producing and vending machine operations are in practice, unattended, uninspected and unlicensed FOOD preparation and packaging FOOD ESTABLISHMENTS. The food (ice) that is packaged in these unlicensed FOOD ESTABLISHMENTS typically lack appropriate FOOD labeling and lack any plan review oversight to ensure that they are placed in an environment appropriate for the preparation and packaging of FOOD. Without regulatory oversight of any kind, there is nothing to prevent their placement in a parking lot sided by a dirt road in cattle country, nor from being down wind fro an operation known to release air borne contaminants. There is no assurance that they are connected to drinking water with proper back flow prevention or that proper cleaning and sanitizing occurs to prevent adulteration of the food. Nor is there any assurance that the FOOD EQUIPMENT and its appurtenances comply with Parts 4-1 and 4-2 of the 2013 Food Code or that the machine(s) have appropriate certification to American National Standards Institute (ANSI) sanitation standards. So great is the gap in food safety with this rapid proliferation of unregulated food vending sites, that the State of Florida created an administrative rule that requires licensure of these hybrid FOOD ESTABLISHMENT/FOOD PACKAGING AND VENDING operations on tier own. Other States have tried to get a handle on this issue with publication of guidelines and other non-binding ways to encourage diligent food operations.

Section 1-201.10 of the FDA FOOD CODE provides a comprehensive definition for what comprises a FOOD ESTABLISHMENT. Paragraph (3) of the definition states FOOD ESTABLISHMENTS that offer only *PREPACKAGED* foods that are not temperature controlled for safety are *NOT* FOOD ESTABLISHMENTS. Because the non temperature controlled for safety food (ice) is offered only in a PACKAGED form, these operations do not meet the criteria for the exemption and should be licensed and thereby and subject to plan review and inspection. To be clear, had previous biennial meetings of the CFP intended to refer to all non-temperature control for safety **PACKAGED** foods in its Food Establishment definitions exclusion, there would be no "PRE" FIX to the word "PREPACKAGED".

Recommended Solution: The Conference recommends...:

that a letter be sent to the FDA amending the 2013 Food Code definition of a FOOD ESTABLISHMENT as follows (new language is in underline format):

(2) "Food establishment" includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location *unless the vending or feeding location is permitted by the REGULATORY AUTHORITY*; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the PREMISES; and regardless of whether there is a charge for the FOOD.

(c) An establishment that offers ice and/or other non-temperature controlled for safety foods that are processed and/or packaged in bulk within the operation and vended automatically.

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