



MISSOURI DEPARTMENT OF  
**HEALTH &  
SENIOR SERVICES**

Food Establishment Inspection Authority  
Next Steps When Denied Access to Perform an Inspection

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# Food Establishment Inspection Authority

## Next Steps When Denied Access to Perform and Inspection



**Legal  
Authority**



**A Case In Point**



**Lessons  
Learned**



**Key Take Aways**

# Know Your Legal Authorities

- Chapter 196.010 – 196.298 RSMo
- Missouri laws governing the sell of food, drugs, devices, or cosmetics



# Know Your Legal Authorities

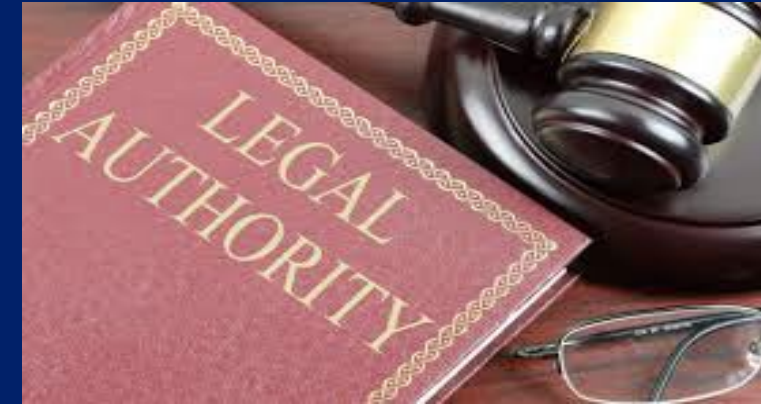
## 196 RSMo

- Includes
  - Definitions
  - Acts Prohibited
  - Embargo Authority
  - Adulterated Conditions
  - Misbranding
  - **Access**
  - Cottage Food Laws
  - Penalties
  - Closing Authority
  - Etc.



# Know Your Legal Authorities

- **196.045 RSMO**
  - Grants DHSS the authority to promulgate regulations for the efficient enforcement of sections 196.010 to 196.120
- **Thus, we have:**
  - **19CSR 20-1.025**
    - Sanitation of Food Establishments:
    - AKA: The Missouri Food Code
- **192.300 RSMo**
  - **Allows LPHA's to Adopt Local Ordinances**



# Food Establishments May need a little help to gain compliance:



**Education**



**Motivation**

*You got  
this!*

**Encouragement**



**And  
Sometimes  
Enforcement**

**In Cases where enforcement is necessary:**

**The Environmental Health Operational Guidelines (EHOG) is a resource for Options:**

**Work with your State Regional Environment Public Health Specialist:**

**Risk Control Plans**

**Work Orders and Closing Orders**

**But what about cases where you are denied access to perform an inspection**





**IN MOST CASES  
FOOD  
ESTABLISHMENTS  
UNDERSTAND OUR  
AUTHORITY TO  
PERFORM ROUTINE  
INSPECTIONS**

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# **Denied Access to Perform an Inspection:**

## **RSMo's To Know**

- 196.055**

- “Access to places in which food, drugs, devices or cosmetics are manufactured.”

- Free access at all reasonable hours

- Any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce including transport vehicles

# **Denied Access to Perform an Inspection:**

## **RSMo's To Know**

- 196.015**

- “The following acts and the causing thereof within the state of Missouri are hereby prohibited:”

- (6) “The refusal to permit entry or inspection, to permit the taking of a sample, as authorized by section 196.055;”



# **A Case In Point**

Denied Access to perform an  
inspection during this past year

Nov.  
2023

**LPHA alerted BEHS**

LPHA alerted BEHS of the denial to inspection. The establishment was not approved to open by LPHA

Nov.  
2023

**Letter Issued**

Letter sent to owner stating they meet definition of food establishment and informing them an inspection would be conducted.

Dec.  
2023

**Joint inspection with LPHA and BEHS**

Attempt inspection was made. Owner denied access.

Jan.  
2024

**Joint Inspection with LPHA and DHSS**

Attempt inspection was made. Local law enforcement on scene as well. Owner denied access.

Dec.  
2023

**BEHS Wrote Probable Cause Statement**

Probable Cause statement written by BEHS staff.

Dec.  
2023

**Notice of Acceptance**

Owner issued Non-negotiable Notice of Acceptance letter to DHSS.

Jan.  
2024

**Notice of Acceptance**

Owner issued Non-negotiable Notice of Acceptance letter.

March  
4, 2024

**Court Order**

Court order was received to allow DHSS to conduct inspections.

March  
13, 2024

**Joint Inspection**

Joint inspection with DHSS and LPHA. Local law enforcement on scene as well. Owner denied access.

March  
21, 2024

**Inspection Conducted**

Inspection was conducted.  
Violations were found.  
Unapproved product was  
found, embargoed, and  
voluntarily destroyed.

March  
21, 2024

**BEHS Inspection**

Inspection conducted by  
BEHS staff of facility.

March  
19, 2024

**Contempt of Court**

Owner was in violation of  
court order.

April  
23, 2024

**Follow-up Inspection**

BEHS staff conducted a  
follow-up inspection. Met  
with owner and facility  
was in compliance with  
established standards

To  
Date

**Establishment Engaging  
with LPHA and BEHS to  
assure compliance**



# Other Examples

Denied Access to perform an inspection

Easily resolved with explanation

Transportation  
vehicles

Outbuildings  
located at a  
food  
warehouse

Fun Center  
with a food  
concession  
stand

Convenience  
store  
back room  
storage  
area

# **Lessons Learned:**

## **What to do when denied access to inspect**

- **Meticulous documentation is a must:**
  - **Sanitation Report detailing the events:**
    - Facility name, owner, time of arrival/departure, who you spoke with during your visit , the purpose for your visit and circumstances surrounding denied access.
  - Pictures if possible

**DO NOT FORCIBLY ATTEMPT TO INSPECT**

**CONTACT YOUR STATE REGIONAL EPHS FOR ASSISTNANCE**

# **Lessons Learned:**

## **What to do when denied access to inspect**

- Call
  - Your regional EPHS Supervisor will assist you including:
    - A joint call, email and/or letter to the facility explaining authority to inspect
      - Notice provided to the facility including an anticipated date when the inspection will be performed.
- Follow-up visit to the facility
  - Detailed document of the field visit
  - Providing applicable copies of statutes to the owner including allowed access to conduct an inspection

# **Lessons Learned:**

## **What to do when denied access to inspect**

- **If continued failure to gain access our only option is to proceed with legal action including:**
  - **Probable cause statements**
  - **Court hearing**
  - **Court orders**

# **Key Takeaways**

- **It is important to know your regulatory authority**
- **Exhaust all efforts to gain voluntary compliance thru**
  - **Education**
  - **Motivation**
  - **Encouragement**



# Key Takeaways

- **Development of great partnerships**
  - LPHA's
  - BEHS
  - Local Law Enforcement
  - Prosecuting Attorney's Office
- **Court recognizing the importance of our right to conduct food establishment inspections**



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# QUESTIONS?

Bureau of Environmental Health Services  
Retail Food Program



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