

CHAPTER 1078

FOOD SERVICE SANITATION AND HOTEL SANITATION

S. F. 365

AN ACT relating to food service establishments, food establishments, food and beverage vending machines, and hotels, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. SHORT TITLE. Sections one (1) through fifteen (15) of this Act shall be known as the Iowa food service sanitation code and shall appear as a separate chapter in the Code.

Sec. 2. NEW SECTION. DEFINITIONS. For purposes of the Iowa food service sanitation code, unless a different meaning is clearly indicated by the context:

1. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored.

2. "Secretary" means the secretary of agriculture.

3. "Department" means the department of agriculture.

4. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

5. "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service and food service operations in schools and summer camps. The term does not include private homes where food is prepared or stored for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles. The term does not include child day care facilities, food service facilities subject to inspection by other agencies of the state and located in nursing homes, health care facilities, or hospitals.

6. "Local board of health" means a county, city, or district board of health.

7. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

8. "Municipal corporation" means a political subdivision of this state.

9. "Pushcart" means a non-self propelled vehicle limited to serving non-potentially hazardous foods, commissary wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

10. "Regulatory authority" means the state department of agriculture or local board of health that has entered into an agreement with the secretary of agriculture pursuant to section four (4) of this Act for authority to enforce the Iowa food service sanitation code in its jurisdiction.

11. "Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than twelve consecutive days in conjunction with a single event or celebration.

12. "Food service sanitation ordinance" means the 1976 edition of the federal food and drug administration food service sanitation ordinance. Copies of the food service sanitation ordinance shall be on file in the department.

Sec. 3. NEW SECTION. ADOPTION BY RULE. As soon as practicable, the secretary shall adopt the food service sanitation ordinance by rule as part of the Iowa food service sanitation code with the following exceptions:

1. 1-102 (h), (i), and (z) shall be deleted.
2. 1-104 shall be deleted.
3. 10-101 shall be amended so that the following food service establishments are exempt from the license requirement:
 - a. Food service operations in schools.
 - b. Places used by churches, fraternal societies, and civic organizations which engage in the serving of food not more often than ten times per month.

10-101 shall also be amended so that a license issued by the department of agriculture prior to the effective date of this Act shall be valid until its expiration date.

4. 10-201 shall be amended so that food service operations in schools and summer camps shall be inspected at least once every year instead of twice every year.

5. 10-601 shall be deleted.

Sec. 4. NEW SECTION. AUTHORITY TO ENFORCE THE IOWA FOOD SERVICE SANITATION CODE. The secretary has sole and exclusive authority to regulate, license, and inspect food service establishments and to enforce the Iowa food service sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from food service

establishments except as provided for in the Iowa food service sanitation code.

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa food service sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa food service sanitation code if it also agrees to enforce the Iowa hotel sanitation code pursuant to section eighteen (18) of this Act and to enforce the food and beverage vending machine laws pursuant to section sixty-one (61) of this Act. To avoid duplication of inspection, the department, not a local board of health, shall inspect a food service establishment located within a food establishment.

If the secretary enters into an agreement with a municipal corporation as provided by this section, the secretary shall cause the inspection practices of a municipal corporation to be spot checked on a regular basis.

Each local board of health that is responsible for enforcing the Iowa food service sanitation code within its jurisdiction pursuant to an agreement shall make an annual report to the secretary providing the following information:

1. The total number of food service establishment licenses granted or renewed during the year.
2. The number of food service establishment licenses granted or renewed during the year broken down into the following categories:
 - a. Mobile food units and pushcarts.
 - b. Temporary food service establishments.
 - c. Food service establishments with annual gross sales of under fifty thousand dollars other than mobile food units, pushcarts, or temporary food service establishments.
 - d. Food service establishments with annual gross sales of between fifty thousand and one hundred thousand dollars other than mobile food units, pushcarts, or temporary food service establishments.
 - e. Food service establishments with annual gross sales of more than one hundred thousand but less than two hundred fifty thousand dollars other than mobile food units, pushcarts, or temporary food service establishments.

f. Food service establishments with annual gross sales of two hundred fifty thousand dollars or more other than mobile food units, pushcarts, or temporary food service establishments.

3. The amount of money collected in license fees during the year.

4. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the Iowa food service sanitation code within their respective jurisdictions. If the secretary determines that the Iowa food service sanitation code is enforced by a local board of health, such enforcement shall be accepted in lieu of enforcement by the department in that jurisdiction. If the secretary determines that the Iowa food service sanitation code is not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 5. NEW SECTION. LICENSE FEES. Either the department or the municipal corporation shall collect the following annual license fees:

1. For a mobile food unit or pushcart, ten dollars.
2. For a temporary food service establishment per fixed location, ten dollars.
3. For a food service establishment with annual gross sales of under fifty thousand dollars other than a mobile food unit, pushcart, or temporary food service establishment, forty dollars.
4. For a food service establishment with annual gross sales of between fifty thousand and one hundred thousand dollars other than a mobile food unit, pushcart, or temporary food service establishment, seventy dollars.
5. For a food service establishment with annual gross sales of more than one hundred thousand but less than two hundred fifty thousand dollars other than a mobile food unit, pushcart, or temporary food service establishment, one hundred twenty-five dollars.
6. For a food service establishment with annual gross sales of two hundred fifty thousand dollars or more, one hundred fifty dollars.

Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by it and for its use.

Sec. 6. NEW SECTION. LICENSE EXPIRATION AND RENEWAL. Each license shall expire one year from date of issue. A license is renewable. All licenses issued under the Iowa food service sanitation code that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date.

Sec. 7. NEW SECTION. TOILET AND LAVATORY FACILITIES. A food service establishment that is not a mobile food unit, pushcart, or temporary food service establishment shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to chapter seventeen A (17A) of the Code.

Sec. 8. NEW SECTION. PLUMBING IN FOOD SERVICE ESTABLISHMENTS. A food service establishment shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The water supply service and sewerage system of a food service establishment shall meet the technical requirements of the local board of health, the department of health, and the department of environmental quality.

Sec. 9. NEW SECTION. FIRE PROTECTION REGULATIONS. The state fire marshal shall adopt, amend, promulgate, and enforce standards relating to fire protection and fire safety in food service establishments in accordance with chapter seventeen A (17A) of the Code.

Sec. 10. NEW SECTION. INSPECTION UPON COMPLAINT. Upon receipt of a verified complaint signed by a customer of a food service establishment and stating facts indicating the place is in an insanitary condition, the regulatory authority may conduct an inspection.

Sec. 11. NEW SECTION. POSTING INSPECTION NOTICE. Immediately after an inspection of a food service establishment is conducted by the regulatory authority, the licensee or person in charge shall post, in a conspicuous place easily accessible to the public, a notice stating the date of the inspection and the name of the inspector who conducted the inspection. This notice shall remain so posted until it is replaced after the next inspection. The regulatory authority shall provide these inspection notices after each inspection.

Sec. 12. NEW SECTION. POSTING "POOR" INSPECTION RESULTS. If a food service establishment receives two consecutive inspection ratings of under 76, the numerical rating along with the designation of "poor" shall be posted by the licensee

or person in charge along with the inspection notice provided for in section eleven (11) of this Act. The rating and "poor" designation shall remain posted until a rating above 75 is received at a subsequent inspection. When a food service establishment receives a "poor" rating, the inspector shall advise the licensee, or person in charge, of the posting requirement set forth in this section.

Sec. 13. NEW SECTION. PENALTY. A person who violates a provision of the Iowa food service sanitation code shall be guilty of a simple misdemeanor. Each day upon which such a violation occurs constitutes a separate violation.

Sec. 14. NEW SECTION. DUTY OF COUNTY ATTORNEY. The county attorney in each county shall assist in the enforcement of the Iowa food service sanitation code.

Sec. 15. NEW SECTION. CONFLICTING STATUTES. Provisions of the Iowa food service sanitation code in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

Sec. 16. NEW SECTION. SHORT TITLE. Sections sixteen (16) through thirty-four (34) of this Act shall be known as the Iowa hotel sanitation code and shall appear as a separate chapter in the Code.

Sec. 17. NEW SECTION. DEFINITIONS. For purposes of the Iowa hotel sanitation code, unless a different meaning is clearly indicated by the context:

1. "Secretary" means the secretary of agriculture.
2. "Department" means the department of agriculture.
3. "Guest room" shall mean any bedroom or other sleeping quarters for transient guests in a hotel.
4. "Hotel" shall mean any building or structure, equipped, used, advertised as, or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished transient guests for hire.
5. "Local board of health" means a county, city, or district board of health.
6. "Municipal corporation" means a political subdivision of this state.
7. "Regulatory authority" means the state department of agriculture or local board of health that has entered into an agreement with the secretary pursuant to section eighteen (18) of this Act for authority to enforce the Iowa hotel sanitation code in its jurisdiction.

Sec. 18. NEW SECTION. AUTHORITY TO ENFORCE THE IOWA HOTEL

SANITATION CODE. The secretary has sole and exclusive authority to regulate, license, and inspect hotels and to enforce the Iowa hotel sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from hotels except as provided for in the Iowa hotel sanitation code.

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the Iowa food service sanitation code pursuant to section four (4) of this Act and to enforce the food and beverage vending machine laws pursuant to section sixty-one (61) of this Act.

Each local board of health that is responsible for enforcing the Iowa hotel sanitation code within its jurisdiction, pursuant to an agreement, shall make an annual report to the secretary providing the following information:

1. The total number of hotel licenses granted or renewed during the year.
2. The number of hotel licenses granted or renewed during the year broken down into the following categories:
 - a. Hotels containing fifteen guest rooms or less.
 - b. Hotels containing more than fifteen but less than thirty-one guest rooms.
 - c. Hotels containing more than thirty but less than seventy-six guest rooms.
 - d. Hotels containing more than seventy-five but less than one hundred fifty guest rooms.
 - e. Hotels containing one hundred fifty or more guest rooms.
3. The amount of money collected in license fees during the year.
4. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the Iowa hotel sanitation code within their respective jurisdictions. If the secretary determines that the Iowa hotel sanitation code is enforced by a local board of health, such enforcement shall be accepted

in lieu of enforcement by the department in that jurisdiction. If the secretary determines that the Iowa hotel sanitation code is not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 19. NEW SECTION. LICENSE REQUIRED. No person shall open or operate a hotel until a license has been obtained from the regulatory authority and until the hotel has been inspected by the regulatory authority. A license issued by the department of agriculture prior to the effective date of this Act shall be valid until its expiration date. An inspection conducted by the department of agriculture prior to the effective date of this Act shall be valid for purposes of this section. Each license shall expire one year from date of issue. A license is renewable. All licenses issued under the Iowa hotel sanitation code that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date. A license is not transferable.

Sec. 20. NEW SECTION. APPLICATION FOR LICENSE. Every application for a license under the Iowa hotel sanitation code shall be made upon a blank furnished by the regulatory authority and shall contain the items required by the department as to ownership, management, location, buildings, equipment, rates, and other data concerning the hotel for which a license is desired. An application for a license to operate an existing hotel shall be made at least thirty days before the expiration of the existing license.

Sec. 21. NEW SECTION. LICENSE FEES. Either the department or the municipal corporation shall collect the following annual license fees:

1. For a hotel containing fifteen guest rooms or less, twenty dollars.
2. For a hotel containing more than fifteen but less than thirty-one guest rooms, thirty dollars.
3. For a hotel containing more than thirty but less than seventy-six guest rooms, forty dollars.
4. For a hotel containing more than seventy-five but less than one hundred fifty guest rooms, fifty dollars.
5. For a hotel containing one hundred fifty or more guest rooms, seventy-five dollars.

Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by it and for its use.

Sec. 22. NEW SECTION. LICENSE REVOCATION. A license issued under the Iowa hotel sanitation code may be revoked by the regulatory authority for violation by the licensee of a provision of the Iowa hotel sanitation code or applicable rule of the department.

Sec. 23. NEW SECTION. TOILET AND LAVATORY FACILITIES. A hotel shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to chapter seventeen A (17A) of the Code.

Sec. 24. NEW SECTION. PLUMBING IN HOTELS. A hotel shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The plumbing system shall have a connection to a municipal water and sewerage system or to a benefited water district or sanitary sewerage district whenever such facilities become available.

A hotel beyond the reach of a central water or sewerage system shall be served by on-site facilities which meet the technical requirements of the local board of health, the department of health, and the department of environmental quality.

Sec. 25. NEW SECTION. EMPLOYMENT OF DISEASED PERSONS. No person infected with a communicable disease as defined in chapter one hundred thirty-nine (139) of the Code shall work in a hotel. No employer shall permit such a person to work in the employer's hotel.

Sec. 26. NEW SECTION. LIST OF ROOM RATES TO BE POSTED. A complete list of rooms by number together with the number of the floor and the rate per day per person for each room shall be kept continuously and conspicuously posted on the wall near the office in the lobby of a hotel in such a way as to be accessible to the public without request to the management. The rate per day per person for each room shall also be posted in the same manner in each room. No amount greater than the one posted shall be charged.

Sec. 27. NEW SECTION. INCREASE OF RATES. The rates posted under section twenty-six (26) of this Act shall not be increased until sixty days' notice of the proposed increase has been given to the regulatory authority.

Sec. 28. NEW SECTION. FIRE PROTECTION REGULATIONS. The

state fire marshal shall adopt, amend, promulgate, and enforce standards relating to fire protection and fire safety in hotels in accordance with chapter seventeen A (17A) of the Code.

Sec. 29. NEW SECTION. ANNUAL INSPECTION. The regulatory authority shall inspect each hotel in the state at least once each calendar year. The inspector may enter the hotel at any reasonable hour to make the inspection. The management shall afford free access to every part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete inspection.

Sec. 30. NEW SECTION. INSPECTION UPON COMPLAINT. Upon receipt of a verified complaint signed by a guest of a hotel and stating facts indicating the place is in an insanitary condition, the regulatory authority may conduct an inspection.

Sec. 31. NEW SECTION. PENALTY. A person who violates a provision of the Iowa hotel sanitation code shall be guilty of a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

Sec. 32. NEW SECTION. INJUNCTION. A person conducting a hotel in violation of a provision of the Iowa hotel sanitation code may be restrained by injunction from operating that hotel. If an imminent health hazard exists, the hotel, or as much of the hotel as is necessary, must cease operation. Operation shall not be resumed until authorized by the regulatory authority.

Sec. 33. NEW SECTION. DUTY OF COUNTY ATTORNEY. The county attorney in each county shall assist in the enforcement of the Iowa hotel sanitation code.

Sec. 34. NEW SECTION. CONFLICTING STATUTES. Provisions of the Iowa hotel sanitation code in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

Sec. 35. Section one hundred fifty-nine point six (159.6), subsection seven (7), Code 1977, is amended to read as follows:

7. ~~Hotels, restaurants, and food~~ Food establishments, chapter 170.

Sec. 36. Section one hundred fifty-nine point six (159.6), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. Food service establishments as set forth in sections one (1) through fifteen (15) of this Act.

NEW SUBSECTION. Hotels as set forth in sections sixteen

(16) through thirty-four (34) of this Act.

Sec. 37. Section one hundred seventy point one (170.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.1 DEFINITIONS. For the purpose of this chapter:

1. "Food" shall mean any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

2. "Food establishment" shall mean any place used as a bakery, confectionery, cannery, packinghouse, slaughterhouse where animals or poultry are killed or dressed for food, retail grocery, meat market, or other place in which food is kept, produced, prepared, or distributed for commercial purposes for off the premise consumption, except those premises covered by a current class "A" beer permit as provided in chapter one hundred twenty-three (123) of the Code.

Sec. 38. Section one hundred seventy point two (170.2), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.2 LICENSE REQUIRED. No person shall open or operate a food establishment until a license has been obtained from the department of agriculture. Each license shall expire one year from date of issue. A license is renewable. This section shall not require the licensing of establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to section one hundred eighty-nine A point three (189A.3) of the Code.

Sec. 39. Section one hundred seventy point four (170.4), Code 1977, is amended to read as follows:

170.4 OPERATION WITHOUT INSPECTION OR LICENSE. No person shall open or operate a ~~hotel, motor-inn, tavern, restaurant,~~ or food establishment until inspection has been made by the department of agriculture ~~or proper application for license has been made at least fourteen days in advance of opening.~~

Sec. 40. Section one hundred seventy point five (170.5), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.5 LICENSE FEES. The department of agriculture shall collect the following fees for licenses:

For a food establishment with an annual gross sales volume of:

1. Less than ten thousand dollars, twenty dollars.
2. Ten thousand dollars but less than two hundred fifty thousand dollars, fifty dollars.

3. Two hundred fifty thousand dollars but less than five hundred thousand dollars, seventy-five dollars.

4. Five hundred thousand dollars but less than seven hundred fifty thousand dollars, one hundred dollars.

5. Seven hundred fifty thousand dollars or more, one hundred fifty dollars.

The fees paid by a food establishment to the department shall be reduced by fifty percent of the amount of any fees paid to the department by it for a food service establishment license for the same premises.

All licenses issued under this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date.

After collection, the fees shall be deposited in the general fund of the state.

Sec. 41. Section one hundred seventy point nine (170.9), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.9 PLUMBING IN BUILDINGS. Every food establishment shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The plumbing system shall have a connection to a municipal water and sewerage system or to a benefited water district or sanitary sewerage district whenever such facilities become available.

Sec. 42. Section one hundred seventy point ten (170.10), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.10 FOOD ESTABLISHMENTS WITH PRIVATE WATER AND SEWER FACILITIES. When a food establishment is served by privately owned water or waste treatment facilities these facilities shall meet the technical requirements of the local board of health, the department of health, and the department of environmental quality.

Sec. 43. Section one hundred seventy point nineteen (170.19), Code 1977, is amended to read as follows:

170.19 SANITARY REGULATIONS. The following sanitary regulations shall be complied with in ~~every hotel, restaurant,~~ and a food establishment:

1. The floors, walls, ceilings, woodwork, utensils, machinery, and other equipment, and all vehicles and equipment used in the transportation of food shall be kept in a thoroughly clean condition.

2. Food shall be at all times adequately protected from flies, dirt, and contamination from any source.

3. Dirt, refuse, and waste products subject to decomposition or fermentation shall be removed daily.

4. ~~The clothing of all persons employed shall be kept clean, and those who handle food shall keep themselves clean, keep their fingernails well trimmed, and wash their hands and arms before beginning work and after visiting the toilet.~~ Clean clothing shall be worn by all food handlers and employees and all employees shall wash themselves after engaging in activities which may affect their cleanliness.

5. Smoking by proprietors, cooks, and help shall be strictly forbidden while preparing or serving food. Proprietors shall be held responsible when employees violate this rule.

6. While preparing food, employees shall use effective hair restraints to prevent the contamination of food.

7. No dogs or pets shall be allowed in any a food establishment, ~~restaurant, cafeteria, cocktail lounge, or tavern,~~ except as provided in section 601D.5.

Sec. 44. Section one hundred seventy point twenty-six (170.26), Code 1977, is amended to read as follows:

170.26 EMPLOYMENT OF DISEASED PERSONS. No person infected with any a communicable disease as defined in chapter 139 shall work in ~~any hotel, motor inn, restaurant, tavern, cocktail lounge, or a~~ food establishment ~~nor shall any.~~ No employer shall permit any such a person to work at any such in the employer's food establishment.

Sec. 45. Section one hundred seventy point thirty-eight (170.38), Code 1977 Supplement, is amended by striking the section and inserting in lieu thereof the following:

170.38 FIRE PROTECTION REGULATIONS. The state fire marshal shall adopt, amend, promulgate, and enforce standards relating to fire protection and fire safety in food establishments in accordance with chapter seventeen A (17A) of the Code.

Sec. 46. Section one hundred seventy point forty-six (170.46), Code 1977, is amended to read as follows:

170.46 ANNUAL INSPECTION. The department shall ~~cause to be inspected~~ inspect each food establishment in the state at least once each calendar year, every hotel, restaurant, and food establishment in the state, and any. The inspector ~~of said department~~ may enter any such the place food establishment at any reasonable hour to make such the inspection. The management shall afford free access to every

part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete examination inspection.

Sec. 47. Section one hundred seventy point forty-seven (170.47), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.47 INSPECTION UPON COMPLAINT. Upon receipt of a verified complaint signed by a customer of a food establishment and stating facts indicating the place is in an insanitary condition, the department may conduct an inspection.

Sec. 48. Section one hundred seventy point fifty (170.50), Code 1977, is amended to read as follows:

170.50 INJUNCTION. Any A person conducting operating a ~~hotely-restauranty-or~~ food establishment, in violation of any a provision of this chapter, may be restrained by injunction from further operating such-place-of-business that food establishment. No-injunction-shall-issue-until-after the-defendant-has-had-at-least-five-days-notice-of-the application-therefor,-and-the-time-fixed-for-hearing-thereon- If an imminent health hazard exists, the food establishment must cease operation. Operation shall not be resumed until authorized by the department.

Sec. 49. Chapter one hundred seventy (170), Code 1977, is amended by adding the following new section:

NEW SECTION. TOILET AND LAVATORY FACILITIES. A food establishment shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to chapter seventeen A (17A) of the Code.

Sec. 50. Section one hundred eighty-nine A point three (189A.3), unnumbered paragraphs one (1) and two (2), Code 1977, are amended to read as follows:

No person shall operate an establishment other than a grocery store or food service establishment as defined in section two (2) of this Act without first obtaining a license from the department. The license fee for each establishment, ~~excluding-restaurants-and-grocery-stores,~~ per year or any part of a year shall be:

1. For all meat and poultry slaughtered or otherwise prepared not exceeding twenty thousand pounds per year for sale, resale, or custom, twenty-five dollars.

2. For all meat and poultry slaughtered or otherwise prepared in excess of twenty thousand pounds per year for sale ~~or,~~ resale, or custom, fifty dollars.

~~The-license-fee-for-each-restaurant-selling-twenty-pounds~~

~~or more of meat or meat products annually and each grocery store per year or any part of a year shall be five dollars.~~

Sec. 51. Section one hundred ninety-one A point one (191A.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

191A.1 DEFINITIONS. For the purpose of this chapter:

1. "Commissary" or "vending machine commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored.
2. "Secretary" means the secretary of agriculture.
3. "Department" means the department of agriculture.
4. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
5. "Local board of health" means a county, city, or district board of health.
6. "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.
7. "Municipal corporation" means a political subdivision of this state.
8. "Operator" means any person who by contract, agreement, or ownership takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.
9. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth or infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.5 or below or a water activity (Aw) value of 0.85 or less.
10. "Regulatory authority" means the state department of agriculture or local board of health that has entered into an agreement with the secretary of agriculture pursuant to section sixty-one (61) of this Act for authority to enforce the food and beverage vending machine laws in its jurisdiction.
11. "Vending machine" means any self-service device which, upon insertion of a coin or token, or by other similar means, dispenses unit servings of food, either in bulk or in packages,

without the necessity of replenishing the device between each vending operation.

12. "Perishable food" means any food of a type or in a condition which may spoil.

Sec. 52. Section one hundred ninety-one A point two (191A.2), Code 1977, is amended to read as follows:

191A.2 LICENSE TO OPERATE. No person shall operate one or more vending machines until ~~he has obtained~~ a vending machine operator's license has been obtained from the ~~department of agriculture~~ regulatory authority. A license issued by the department of agriculture prior to the effective date of this Act shall be valid until its expiration date. The annual license shall expire one year from the date of original issuance and ~~be renewed annually~~ is renewable. Vending machines dispensing only ball gum, or similar nonperishable snacks as prescribed and defined by regulation of the secretary, or bottled or canned soft drinks shall not require a license or be subject to the fee schedule provided in this chapter, but they may be inspected pursuant to section 191A.8.

Sec. 53. Section one hundred ninety-one A point three (191A.3), Code 1977, is amended to read as follows:

191A.3 APPLICATION. ~~Every~~ An application for a vending machine operator's license shall be made upon a form furnished by the ~~department~~ regulatory authority. The application form shall provide for obtaining information relating to ownership of commissaries, location of commissaries, location of shops and other servicing centers, and the total number of licensable vending machines by general product type owned and operated by the applicant and ~~such~~ other information required by the secretary. The operator shall agree in the application to maintain within the jurisdiction of the ~~department~~ regulatory authority a complete list of all vending machines and machine locations operated by the applicant and to make the list available to the ~~department~~ regulatory authority at the time of inspection or auditing.

Sec. 54. Section one hundred ninety-one A point four (191A.4), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

191A.4 The regulatory authority shall collect a fee of two dollars per vending machine for a vending machine operator's license.

The vending machine operator's license shall not be transferable from one person to another, but shall require an immediate application and the payment of a new fee.

Fees for a vending machine commissary shall be the same as those for a food establishment as set forth in section one hundred seventy point five (170.5) of the Code or for a food service establishment as set forth in section five (5) of this Act, whichever is applicable.

Sec. 55. Section one hundred ninety-one A point six (191A.6), Code 1977, is amended to read as follows:

191A.6 IDENTIFICATION TAG. Each vending machine licensed under the provisions of this chapter shall bear a readily visible identification tag or decal provided by the licensee, containing his or her business address and phone number, and a company permit number assigned by the department regulatory authority.

Sec. 56. Section one hundred ninety-one A point seven (191A.7), Code 1977, is amended to read as follows:

191A.7 DISCIPLINARY ACTION. Any A license issued under this chapter may be revoked by the department regulatory authority for violation by the licensee of any a provision of this chapter or any-applicable-rules-or-regulations an applicable rule of the department. In lieu of license revocation, the department regulatory authority may require the immediate discontinuance of operation of any a vending machine or commissary whenever the-department it finds unsanitary insanitary conditions or any other conditions which constitute a substantial hazard to the public health. The order shall apply only to the vending machines, commissary, or product involved. Any A person whose license is revoked, or who is ordered to discontinue the operation of any a vending machine or commissary, may appeal such that decision to the secretary. The secretary or his the secretary's designee shall schedule and hold a hearing upon the appeal not later than thirty days from the time of revocation or the order of discontinuance, and. The secretary shall issue his a decision immediately following the hearing. Judicial review may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 57. Section one hundred ninety-one A point eight (191A.8), Code 1977, is amended to read as follows:

191A.8 INSPECTION. The department regulatory authority shall inspect all vending machine commissaries at least once each calendar year, and shall inspect representative vending machines and vehicles as often as deemed necessary to determine compliance with this chapter and applicable rules of the department. Section ~~470-47~~ thirty (30) of this Act shall

be applicable to the operation of vending machines.

Sec. 58. Section one hundred ninety-one A point nine (191A.9), Code 1977, is amended to read as follows:

191A.9 APPLICABLE PROVISIONS. The provisions of sections ~~470-46~~ twenty-nine (29) of this Act, 170.50, and 170.51 shall apply in the enforcement of this chapter.

Sec. 59. Section one hundred ninety-one A point eleven (191A.11), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

191A.11 EXCEPTIONS TO LICENSE. The food establishment license required by section one hundred seventy point two (170.2) of the Code or the food service establishment license required by the Iowa food service sanitation code shall not be required for the area where vending machines licensed under this chapter are located.

Sec. 60. Chapter one hundred ninety-one A (191A), Code 1977, is amended by adding the following new section:

NEW SECTION. FEES DEPOSITED IN GENERAL FUND. All fees collected by the department under the requirements of this chapter shall be deposited in the general fund of the state. Fees collected by a municipal corporation under the requirements of this chapter shall be retained by it and for its use.

Sec. 61. Chapter one hundred ninety-one A (191A), Code 1977, is amended by adding the following new section:

NEW SECTION. AUTHORITY TO ENFORCE THE FOOD AND BEVERAGE VENDING MACHINE LAWS. The secretary has sole and exclusive authority to regulate, license, and inspect food and beverage vending machines and operators and to otherwise enforce the food and beverage vending machine laws. Municipal corporations shall not regulate, license, inspect, or collect license fees for food and beverage vending machines or their operation except pursuant to this section.

If a municipal corporation wants its local board of health to enforce the food and beverage vending machine laws within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the food and beverage vending machine laws if it also agrees to enforce the Iowa food service sanitation code pursuant to section four (4) of this Act and to enforce the Iowa hotel sanitation code pursuant to section eighteen (18) of this Act.

Each local board of health that is responsible for enforcing the food and beverage vending machine laws within its jurisdiction pursuant to an agreement shall make an annual report to the secretary providing the following information:

1. The total number of food or beverage vending machine operator's licenses granted or renewed during the year.
2. The amount of money collected in license fees during the year.
3. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the food and beverage vending machine laws within their respective jurisdictions. If the secretary determines that the food and beverage vending machine laws are enforced by a local board of health, the secretary shall accept such enforcement in lieu of enforcement by the department in that jurisdiction. If the secretary determines that the food and beverage vending machine laws are not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 62. Sections one hundred seventy point seven (170.7), one hundred seventy point eleven (170.11), one hundred seventy point thirteen (170.13), one hundred seventy point fourteen (170.14), one hundred seventy point sixteen (170.16), one hundred seventy point seventeen (170.17), one hundred seventy point eighteen (170.18), one hundred seventy point twenty-one (170.21), one hundred seventy point twenty-two (170.22), one hundred seventy point twenty-three (170.23), one hundred seventy point twenty-four (170.24), one hundred seventy point twenty-nine (170.29), one hundred seventy point thirty (170.30), one hundred seventy point thirty-one (170.31), one hundred seventy point thirty-two (170.32), one hundred seventy point thirty-three (170.33), one hundred seventy point thirty-five (170.35), one hundred seventy point thirty-six (170.36), one hundred seventy point thirty-seven (170.37), one hundred ninety-one A point five (191A.5), one hundred ninety-two point one (192.1), one hundred ninety-two point two (192.2), one hundred ninety-two point three (192.3), and one hundred ninety-two point four (192.4), Code 1977, are repealed.

Sec. 63. Section three (3) of this Act is effective July 1, 1978.

Sec. 64. Except as otherwise specifically provided, this Act is effective January 1, 1979.

Approved April 27, 1978

CHAPTER 1079
CORPORATE FARMING

H. F. 2021

AN ACT relating to definitions and reports pertaining to corporate farming, restrictions on and conveyance of agricultural land holdings, and providing penalties for violations of the corporate farming Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section one hundred seventy-two C point one (172C.1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-two (82), is amended by adding the following new subsection:

NEW SUBSECTION. "Actively engaged in farming" means that a natural person who is a shareholder and an officer, director or employee of the corporation either:

- a. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or
- b. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation; or
- c. Performs physical work which significantly contributes to crop or livestock production.

NEW SUBSECTION. "Nonresident alien" means:

- a. An individual who is not a citizen of the United States and who is not domiciled in the United States.
- b. A corporation incorporated under the law of any foreign country.
- c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.
- d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.
- e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.