

extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under the provisions of this chapter to sell at retail, except that a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be the holder of a class "A" beer permit, may be granted not more than one class "B" permit as defined in section 123.124 for such purpose. Any licensee or permittee who shall permit or assent or be a party in any way to any such violation or infringement of the provisions of this chapter shall be deemed guilty of a violation of the provisions of this chapter.

Approved May 11, 1981

CHAPTER 58
SUBSTANCE ABUSE PROGRAMS

H. F. 821

AN ACT relating to substance abuse programs by making changes in facility licensing and auditing requirements by abolishing the state advisory council on substance abuse, by allowing contracts for education and prevention services, by authorizing inspections, by extending operations of the Iowa department of substance abuse through 1983, by providing for a program evaluation of the department and providing penalties.

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

Section 1. Section 125.2, subsection 2, Code 1981, is amended to read as follows:

2. "Facility" means ~~a-hospital,~~ an institution, a detoxification center, or an installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13, hospitals licensed under chapter 135B, or the state mental health institutes designated by chapter 226.

Sec. 2. Section 125.3, Code 1981, is amended to read as follows:

125.3 ESTABLISHED.

1. There is established the Iowa department of substance abuse which shall develop, implement and administer a comprehensive substance abuse program pursuant to sections 125.1 to 125.43. There is established within the department a commission on substance abuse to establish policies governing the performance of the department in the discharge of duties imposed on it by this chapter. The commission shall consist of nine members appointed by the governor. Appointments shall be made on the basis of

interest in and knowledge of substance abuse, however two of the members shall be persons who, in their regular work, have direct contact with substance abuse clients. ~~All members shall be~~ Only eligible electors of the state of Iowa shall be appointed.

~~2--The governor shall make the initial appointments to the commission and the advisory council for terms commencing July 1, 1977.---The provisions of sections 125.6 and 125.11 shall apply to the payment of per diem and expenses to commission and advisory council members as if the provisions of said sections were in effect on July 1, 1977.---The provisions of this subsection shall be effective July 1, 1977.~~

Sec. 3. Section 125.10, subsection 1, Code 1981, is amended to read as follows:

1. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of ~~title XLII, United States Code,~~ section 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan ~~and shall provide for the appointment of a citizens advisory council on substance abuse.~~

Sec. 4. Section 125.13, subsection 2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The licensing requirements of this chapter, ~~except the requirements imposed by section 125.21, shall~~ do not apply to any of the following:

Sec. 5. Section 125.13, subsection 2, paragraph a, Code 1981, is amended to read as follows:

a. Hospitals providing any care or treatment to substance abusers required ~~on January 1, 1978, by other provisions of law to be licensed to have a license under chapter 135B.~~

Sec. 6. Section 125.13, subsection 2, paragraph d, Code 1981, is amended by striking the paragraph and inserting in lieu thereof the following:

d. A program that provides only education, prevention, referral or post treatment services.

Sec. 7. Section 125.13, subsection 2, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Individuals in private practice who are providing substance abuse treatment services independent from a program that is required to be licensed under subsection 1.

Sec. 8. Section 125.14, Code 1981, is amended to read as follows:

125.14 LICENSES--RENEWAL--FEES. The commission shall meet to consider all cases involving issuance, denial, suspension, or revocation of a license. ~~Upon approval of an application for licensing by the commission, a license shall be issued by the~~ The department shall issue a license to an applicant who the commission determines meets the licensing requirements of this chapter. Licenses shall expire ~~one-year~~ no later than two years from the date of issuance and shall be renewed upon timely application made in the same manner as for original issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal.

Sec. 9. Section 125.21, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The commission ~~shall have~~ has exclusive power in this state to approve and license chemical substitutes and antagonists programs, and monitor chemical substitutes and antagonists programs ~~in--this--state~~ to insure that the programs are operating within the rules established pursuant to this chapter ~~and the~~. The commission shall be obliged to grant such approval and license if the requirements of the rules are met and no state funding is requested. This section does not require approval or licensing of chemical substitutes and antagonists programs conducted by persons exempt from the licensing requirements of this chapter by section 125.13, subsection 2.

Sec. 10. Section 125.55, Code 1981, is amended to read as follows:

125.55 AUDITS. All licensed substance abuse programs ~~shall--be~~ are subject to ~~regular annual audit either~~ by the auditor of state ~~or to special audits requested by the director~~ or in lieu of the examination by state accountants the substance abuse program may contract with or employ certified public accountants to conduct the audit. The audit format shall be as prescribed by the auditor of state. The notification requirements and the powers granted to the auditor of state in sections 11.18 and 11.19 apply to audits conducted by certified public accountants. The certified public accountant shall submit a copy of the audit to the director. A licensed substance abuse program is also subject to special audits as the director requests.

Sec. 11. Section 125.56, Code 1981, is amended to read as follows:

125.56 FUTURE STATUS OF DEPARTMENT AFTER ~~1981~~ 1982. ~~The provisions of this chapter are~~ This chapter is repealed effective July 1, ~~1982~~ 1983.

The ~~first~~ second session of the Sixty-ninth General Assembly meeting in the year ~~1981~~ 1982 shall review the activities and performance of the department and shall not later than July 1, ~~1981~~ 1982 make a determination concerning the status and duties of the department.

Sec. 12. Chapter 125, Code 1981, is amended by adding the following new section:

NEW SECTION. INSPECTION--PENALTIES.

1. If the department has probable cause to believe that an institution, place, building, or agency not licensed as a substance abuse treatment and rehabilitation facility is in fact a substance abuse treatment and rehabilitation facility as defined by this chapter, and is not exempt from licensing by section 125.13, subsection 2, the commission may order an inspection of the institution, place, building, or agency. If the inspector upon presenting proper identification is denied entry for the purpose of making the inspection, the inspector may, with the assistance of the county attorney of the county in which the premises are located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been violations of this chapter. The investigation may include review of records, reports, and documents maintained by the facility and interviews with staff members consistent with the confidentiality safeguards of state and federal law.

2. A person establishing, conducting, managing, or operating a substance abuse treatment and rehabilitation facility without a license is guilty of a serious misdemeanor. Each day of continued violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing or operating a substance abuse treatment and rehabilitation facility without a license may be temporarily or permanently restrained therefrom by a court of competent jurisdiction in an action brought by the state.

3. Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against a person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a substance abuse treatment and rehabilitation facility without a license.

This section does not apply to facilities or programs which are not receiving state dollars.

Sec. 13. Section 125.11, Code 1981, is repealed.

Sec. 14. The program evaluation division of the legislative fiscal bureau shall conduct a study of the administration, structure and funding of the Iowa department of substance abuse. The program evaluation division of the legislative fiscal bureau shall submit a report of its findings to the second session of the Sixty-ninth General Assembly not later than February 1, 1982.

Approved May 4, 1981

CHAPTER 59

INSPECTION OF CORRECTIONAL FACILITIES

H. F. 762

AN ACT relating to inspections of state and local correctional facilities and the state juvenile facilities.

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

Section 1. Section 135.11, subsection 5, Code 1981, is amended to read as follows:

5. Make inspections of the sanitary conditions in the educational, charitable, correctional, and penal institutions in the state. However, the secretary of agriculture shall make inspections for sanitation of the areas where food is prepared or served in the adult penal and correctional facilities and the juvenile facilities as provided in section 2 of this Act.

Sec. 2. Section 159.5, Code 1981, is amended by adding the following new subsection: