

subsection are allowed subject to the requirement that a corporation affected by the allocation provisions of section 422.33 shall be permitted to deduct only such that portion of the deductions for net operating loss and federal income taxes as that is fairly and equitably allocable to Iowa, under rules prescribed by the director.

Sec. 5. RETROACTIVE APPLICABILITY DATE. This division of this Act applies retroactively to January 1, 2009, for tax years beginning on or after that date.

Approved May 22, 2009

CHAPTER 136

BOARDING HOME REGULATION AND PROTECTION OF DEPENDENT ADULTS

S.F. 484

AN ACT relating to regulatory requirements involving boarding homes and dependent adults and providing an appropriation and a penalty.

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

Section 1. Section 10A.104, subsection 9, Code 2009, is amended to read as follows:

9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, 135H, 135J, 135O, 137C, 137D, and 137F.

Sec. 2. Section 91A.9, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The commissioner shall, in consultation with the United States department of labor, develop a database of the employers in this state utilizing special certificates issued by the United States secretary of labor as authorized under 29 U.S.C. § 214, and shall maintain the database.

Sec. 3. NEW SECTION. 135O.1 DEFINITIONS.

For the purposes of this chapter unless the context otherwise requires:

1. "Boarding home" means a premises used by its owner or lessee for the purpose of letting rooms for rental to three or more persons not related within the third degree of consanguinity to the owner or lessee where supervision or assistance with activities of daily living is provided to such persons. A boarding home does not include a facility, home, or program otherwise subject to licensure or regulation by the department of human services, department of inspections and appeals, or department of public health.
2. "Department" means the department of inspections and appeals.
3. "Premises" means the same as defined in section 562A.6.

Sec. 4. NEW SECTION. 135O.2 REQUIRED REGISTRATION AND REPORTING — RULES — PENALTY.

1. The owner or lessee of a boarding home in this state shall register with and submit occupancy reports to the department. The content of the required occupancy reports shall include but is not limited to the number of individuals living in the boarding home and the supervision or assistance with activities of daily living being provided to the individuals.
2. The department of inspections and appeals shall adopt rules to administer this chapter in consultation with the departments of human services and public safety.

3. a. The owner or lessee of a boarding home who fails to register with the department or to timely submit occupancy reports required by this section and rules adopted pursuant to this chapter is subject to a civil penalty of not more than five hundred dollars.

b. The department may reduce, alter, or waive a penalty under paragraph "a" upon the owner's or lessee's showing of good faith compliance with the department's request to immediately cease and desist from conduct in violation of this chapter.

Sec. 5. NEW SECTION. 1350.3 RESPONSE TO ALLEGATIONS.

1. If the department or other state agency receives an allegation of a violation of this chapter by a boarding home or an allegation regarding the care or safety of an individual living in a boarding home, a coordinated, interagency approach shall be used to respond to the allegation.

2. a. The interagency approach may involve a multidisciplinary team consisting of employees of the department of inspections and appeals, the department of human services, the state fire marshal, and the division of criminal investigation of the department of public safety, or other local, state, and federal agencies.

b. The multidisciplinary team may consult with local, state, and federal law enforcement agencies, first responders, health and human services professionals, and governmental and nongovernmental advocacy organizations, and other appropriate persons.

3. The name of a person who files an allegation shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees or the members of a multidisciplinary team involved in the investigation of the allegation.

4. If the department or a multidisciplinary team has probable cause to believe that a boarding home is in violation of this chapter or licensing or other regulatory requirements of the department of human services, department of inspections and appeals, or department of public health, or that dependent adult abuse of any individual living in a boarding home has occurred, and upon producing proper identification, is denied entry to the boarding home or access to any individual living in the boarding home for the purpose of making an inspection or conducting an investigation, the department or multidisciplinary team may, with the assistance of the county attorney of the county in which the boarding home is located, apply to the district court for an order requiring the owner or lessee to permit entry to the boarding home and access to the individuals living in the boarding home.

Sec. 6. NEW SECTION. 1350.4 PUBLIC DISCLOSURE OF FINDINGS.

Following an inspection or investigation of a boarding home under this chapter by the department or a multidisciplinary team, the final findings with respect to compliance by the boarding home shall be made available to the public. Other information relating to a boarding home obtained by the department or a multidisciplinary team which does not constitute the findings from an inspection or investigation of the boarding home shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a boarding home registration under this chapter. The information made available to the public pursuant to this section shall not include information which is kept confidential under section 22.7.

Sec. 7. Section 235B.3, subsection 1, paragraph a, Code 2009, is amended to read as follows:

a. (1) The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously.

(2) However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within facilities and programs pursuant to chapter 235E and shall inform the department of human services of such evaluations and dispositions pursuant to section 235E.2.

(3) If, in the course of an assessment or evaluation of a report of dependent adult abuse, the department of human services or the department of inspections and appeals determines the

case involves wages, workplace safety, or other labor and employment matters under the jurisdiction of the division of labor services of the department of workforce development, the relevant portions of the case shall be referred to the division.

(4) If, in the course of an assessment or evaluation of a report of dependent adult abuse, the department of human services or the department of inspections and appeals determines that the case involves discrimination under the jurisdiction of the civil rights commission, the relevant portions of the case shall be referred to the commission.

Sec. 8. Section 235B.9, subsection 2, Code 2009, is amended to read as follows:

2. a. Dependent adult abuse reports that are rejected for evaluation, assessment, or disposition for failure to meet the definition of dependent adult abuse shall be expunged three years from the rejection date.

b. Dependent adult abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged ~~one year~~ five years from the date it is determined to be unfounded.

Sec. 9. NEW SECTION. 235B.16A DEPENDENT ADULTS — DEPENDENCY ASSESSMENTS — INTERAGENCY TRAINING.

1. The dependent adult protective advisory council established pursuant to section 235B.1 shall recommend a uniform assessment instrument and process for adoption and use by the department of human services and other agencies involved with assessing a dependent adult's degree of dependency and determining whether dependent adult abuse has occurred. However, this section shall not apply to dependent adult abuse assessments and determinations made under chapter 235E.

2. The instrument and process design under subsection 1 shall address but is not limited to all of the following:

a. Evaluation of conformity with applicable federal law and regulations on the part of the persons employing, housing, or providing services to the dependent adult.

b. Provision for the final step in the dependency assessment of a dependent adult to be a formal assessment of the existence of risk to the health or safety of the individual or of the degree of the individual's impairment in ability under the definition of dependent adult in section 235B.2.

c. If the assessment under paragraph "b" determines that a risk to the health or safety of the individual exists or the individual has a significant impairment in ability, and the individual being assessed agrees, provision for a case manager to be assigned to assist in preparing and implementing a safety plan which includes protective services for the individual.

d. If the assessment under paragraph "b" determines that a risk to the health or safety of the individual exists or the individual has a significant impairment in ability, the individual being assessed does not agree to the safety plan provisions under paragraph "c" or accept other services, and the options available under sections 235B.17, 235B.18, and 235B.19 are not utilized, provision for the department of human services to maintain periodic contact with the individual in accordance with rules adopted for this purpose. The purpose of the contact is to assess any increased risk or impairment and to monitor the individual's goals, feelings, and concerns so that the department can intervene when necessary or offer services and other support to maintain or sustain the individual's safety and independence when the individual is ready to agree to a safety plan or accept services.

3. The department of human services and other agencies involved with assessing a dependent adult's degree of dependency and whether dependent adult abuse has occurred shall adopt rules and take other steps necessary to implement the uniform assessment instrument and process addressed by this section on or before July 1, 2010.

4. The department of human services shall cooperate with the departments of elder affairs, inspections and appeals, public health, public safety, and workforce development, the civil rights commission, and other state and local agencies performing inspections or otherwise visiting residential settings where dependent adults live, to regularly provide training to the ap-

propriate staff in the agencies concerning each agency's procedures involving dependent adults, and to build awareness concerning dependent adults and reporting of dependent adult abuse.

Sec. 10. Section 249A.7, Code 2009, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A Medicaid fraud account is created in the general fund of the state under the authority of the department of inspections and appeals. Moneys from penalties and other amounts received as a result of prosecutions involving the department of inspections and appeals investigations and audits to ensure compliance with the medical assistance program that are not credited to the program may be credited to the account. Notwithstanding sections 8.33 and 8.39, moneys credited to the account shall not revert to any other account or fund and are not subject to transfer except as specifically provided by law. Moneys in the fund shall be used for costs associated with the department of inspections and appeals' efforts to address medical assistance program fraud and abuse and for costs incurred by the department of inspections and appeals or other agencies in providing regulation, responding to allegations, or other activity involving chapter 135O. The department of inspections and appeals and other agencies receiving moneys from the account shall provide a joint annual report to the governor and general assembly detailing the expenditures from the account and activities performed relating to the expenditures. This unnumbered paragraph is repealed on July 1, 2012.

Sec. 11. **MEDICAID FRAUD ACCOUNT.** There is appropriated from the Medicaid fraud account created in this Act to the department of inspections and appeals for the fiscal year beginning July 1, 2009, and ending June 30, 2010, the amount necessary for the state financial match requirement for meeting the federal mandates connected with the department's Medicaid fraud and abuse activities, and the amount necessary to cover costs incurred by the department or other agencies in providing regulation, responding to allegations, or other activity involving chapter 135O.

Approved May 22, 2009

CHAPTER 137

REGULATION OF ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES — PREMISES OCCUPANCY RATES

H.F. 278

AN ACT requiring notification of occupancy rates for certain premises licensed to permit on-premises consumption of alcohol.

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

Section 1. Section 123.32, Code 2009, is amended by adding the following new subsection:
NEW SUBSECTION. 4A. **OCCUPANCY RATES.** A local authority located in a county with a population that exceeds three hundred thousand persons, as a condition of obtaining and holding a license or permit for on-premises consumption, shall require the applicant, licensee, or permittee, to provide, and update if necessary, the occupancy rate of the licensed premises.

Approved May 22, 2009