

FILED MAR 4 1971

*Agriculture 1/10/72  
Rev - do pass 1-13-72  
Hes Agriculture 1-24-72, Pass 2-4-72*

SENATE FILE

**334**

BY COMMITTEE ON AGRICULTURE

Passed Senate, Date 1-20-72 Passed House, Date 2-18-72

Vote: Ayes 43 Nays 1 Vote: Ayes 79 Nays 5

Approved March 17, 1972

*Deferred 1-19-72  
Passed Senate as amended  
2-23-72  
aye 40, nay 1*

*Passed House as further amended by Senate  
3-1-72  
aye 63, nay 16*

## A BILL FOR

1 An Act relating to the vending of foods and beverages and  
2 providing a penalty.

*Motion to  
reconsider -  
Lost 3/7*

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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1 Section 1. For the purpose of this Act:

2 1. "Commissary" or "vending machine commissary" means  
3 a catering establishment or restaurant or any other place  
4 in which food, food containers, or food supplies are kept,  
5 handled, prepared, packaged, or stored, and any place directly  
6 from which vending machines are serviced, but shall not mean  
7 a place of temporary storage at a vending machine location.

8 2. "Food" means any articles used by man or domestic  
9 animals for food, drink confectionery, or condiment, or which  
10 enters into composition of the same, whether simple, blended,  
11 mixed, or compound.

12 3. "Machine location" means the room, enclosure, space,  
13 or area where one or more vending machines are installed and  
14 operated.

15 4. "Operator" means any person who by contract, agreement,  
16 or ownership takes responsibility for furnishing, installing,  
17 servicing, operating, or maintaining one or more vending  
18 machines.

19 5. "Potentially hazardous food" means any perishable food  
20 which consists in whole or in part of milk or milk products,  
21 eggs, meat, poultry, fish, shellfish, or other ingredients  
22 capable of supporting rapid and progressive growth of in-  
23 fectious or toxigenic microorganisms.

24 6. "Vending machine" means any self-service device which,  
25 upon insertion of a coin or token, or by other similar means,  
26 dispenses unit servings of food, either in bulk or in packages  
27 without the necessity of replenishing the device between each  
28 vending operation.

29 7. "Perishable food" means any food of a type or in a  
30 condition which may spoil.

31 8. "Department" means the state department of agriculture  
32 of Iowa.

33 9. "Secretary" means the secretary of agriculture of the  
34 state of Iowa.

35 Sec. 2. No person shall operate one or more vending

1 machines until he has obtained a vending machine operator's  
2 license from the department of agriculture. The license shall  
3 expire one year from the date of original issuance and be  
4 renewed annually. Vending machines dispensing only ball gum,  
5 confections, cookies, crackers, or similar nonperishable  
6 snacks as prescribed and defined by regulation of the  
7 secretary, or bottled or canned soft drinks shall not require  
8 a license or be subject to the fee schedule provided in this  
9 Act, but may be inspected pursuant to section eight (8) of  
10 this Act.

11 Sec. 3. Every application for a vending machine operator's  
12 license shall be made upon a form furnished by the department.  
13 The application form shall provide for obtaining information  
14 relating to ownership of commissaries, location of  
15 commissaries, location of shops and other servicing centers,  
16 and the total number of licensable vending machines by general  
17 product type owned and operated by the applicant and such  
18 other information required by the secretary. The operator  
19 shall agree in the application to maintain within the  
20 jurisdiction of the department a complete list of all vending  
21 machines and machine locations operated by the applicant and  
22 to make the list available to the department at the time of  
23 inspection or auditing.

24 Sec. 4. The department shall collect the following fees  
25 for a vending machine operator's license:

26 Number of	27 <u>Machines Operated</u>	<u>Fee Required</u>
28	1 - 3	\$5.00
29	4 - 10	\$25.00
30	11 - 25	\$35.00
31	26 - 50	\$50.00
32	51 - 100	\$100.00
33	101 - 200	\$150.00
34	201 - 300	\$200.00
35	301 - 400	\$250.00

1	401 - 500	\$300.00
2	501 and over	\$400.00

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

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

10 Sec. 5. All fees collected by the department under the  
11 requirements of this Act shall be paid into the hotel and  
12 restaurant fund established in section one hundred seventy  
13 point seven (170.7) of the Code, and shall be expended as  
14 authorized in such section.

15 Sec. 6. Each vending machine licensed under the provisions  
16 of this Act shall bear a readily visible identification tag  
17 or decal provided by the licensee, containing his business  
18 address and phone number, and a company permit number assigned  
19 by the department.

20 Sec. 7. Any license issued under this Act may be revoked  
21 by the department for violation by the licensee of any  
22 provision of this Act or any applicable rules or regulations  
23 of the department. In lieu of license revocation, the  
24 department may require the immediate discontinuance of  
25 operation of any vending machine or commissary whenever the  
26 department finds unsanitary conditions or any other conditions  
27 which constitute a substantial hazard to the public health.  
28 The order shall apply only to the vending machines, commissary,  
29 or product involved.

30 Sec. 8. The department shall inspect all vending machine  
31 commissaries at least once each calendar year, and shall  
32 inspect representative vending machines and vehicles as often  
33 as deemed necessary to determine compliance with this Act  
34 and applicable rules and regulations of the department.  
35 Section one hundred seventy point forty-seven (170.47) of

1 the Code shall be applicable to the operation of vending  
2 machines.

3 Sec. 9. The provisions of sections one hundred seventy  
4 point forty-six (170.46), one hundred seventy point fifty  
5 (170.50), and one hundred seventy point fifty-one (170.51)  
6 of the Code shall apply in the enforcement of this Act.

7 Sec. 10. The department shall promulgate rules and  
8 regulations governing requirements for sanitation of vended  
9 foods and beverages not inconsistent with the terms of this  
10 Act nor federal standards governing the requirements for  
11 sanitation of vended foods and beverages. Such regulations  
12 shall set forth:

13 1. Materials and type of interior and exterior construction  
14 of commissaries and vending machines.

15 2. Machine location and operation.

16 3. Water supply.

17 4. Waste disposal.

18 5. Other factors affecting the purity of food or beverage  
19 processed or dispensed.

20 Sec. 11.

21 1. Vending machines licensed under this Act dispensing  
22 only packaged milk or cream, shall not be required to be  
23 licensed with a retail milk dealer license under section one  
24 hundred ninety-two point one (192.1) of the Code.

25 2. The food establishment license or the restaurant license  
26 required by section one hundred seventy point two (170.2)  
27 of the Code shall not be required for the area where vending  
28 machines licensed under this Act are located.

29 Sec. 12. PENALTY. Any person who violates any provision  
30 of this Act shall, upon conviction, be fined not exceeding  
31 one hundred dollars or imprisoned in the county jail not  
32 exceeding thirty days.

33 Sec. 13. Section one hundred seventy point seven (170.7),  
34 Code 1971, is amended as follows:

35 170.7 HOTEL AND RESTAURANT FUND. All restaurant, hotel,

1 motor inn, and tavern license fees shall upon receipt thereof  
2 by the department be paid to and receipted for by the treasurer  
3 of state and shall be kept by him in a separate fund to be  
4 known as the "hotel and restaurant fund". Such hotel and  
5 restaurant fund shall be continued from year to year and the  
6 treasurer shall keep a separate account thereof showing  
7 receipts and disbursements as authorized by law. No part  
8 of such fund shall be used for any other purpose than the  
9 administration and enforcement of the laws relating to hotels,  
10 and restaurants, vending machines, and commissaries and for  
11 conducting educational programs and sanitary training courses  
12 and for providing literature and suitable promotional work  
13 for the industries licensed under this chapter. If on July  
14 1 of any year there is a balance remaining in said hotel and  
15 restaurant fund which, in the opinion of the secretary of  
16 agriculture, is greater than is necessary for the proper  
17 administration of such laws and for conducting and providing  
18 the services authorized under this section, the treasurer  
19 of state is hereby authorized, on the recommendation and with  
20 the approval of the secretary of agriculture, to transfer  
21 to the general fund of the state such portion of said hotel  
22 and restaurant fund as the secretary of agriculture shall  
23 deem advisable to so transfer.

24 EXPLANATION

25 This is an Act regulating the sale of food and beverages  
26 through vending machines; defining vending machine, operator,  
27 and other terms; requiring licenses and fixing fees for the  
28 installation and operation of vending machines; prohibiting  
29 the sale of, or possession with intent to sell through vending  
30 machines, adulterated or misbranded food or drink; regulating  
31 maintenance and operation of vending machines; authorizing  
32 official inspection of vending machines and operations con-  
33 nected therewith; and providing for the enforcement of this  
34 Act and the fixing of penalties.

35

1 Amend the Potgeter amendment to Senate File 334,  
2 filed January 19, 1972, by striking from line 2 the  
3 number "7" and inserting in lieu thereof the number  
4 "29".

93

Filed and adopted  
January 20, 1972

By POTGETER

*Senate*

SENATE FILE 334

1 Amend Senate File 334 as follows:  
2 Page 4, line 7, by inserting after the period the  
3 following:  
4 "Any person whose license is revoked, or who is  
5 ordered to discontinue the operation of any vending  
6 machine or commissary, may appeal such decision to the  
7 secretary. The secretary or his designee shall schedule  
8 and hold a hearing upon the appeal not later than thirty  
9 days from the time of revocation or the order of dis-  
10 continuance, and shall issue his decision immediately  
11 following the hearing. Any person aggrieved by the  
12 decision of the secretary or his designee may appeal  
13 such decision to the district court."

Filed - *Adopted as amended 1/20 (130)* By POTGETER  
January 19, 1972

*Senate*

1 Amend Senate File 334 as follows:  
2 1. Page 3, by striking from line 5 the words "con-  
3 fections, cookies, crackers,".  
4 2. Page 3, by striking all after the word "collect"  
5 in line 24 and all of lines 25 through 35 and inserting  
6 in lieu thereof the following: "two dollars for each  
7 vending machine operated."  
8 3. Page 4, by striking lines 1 and 2.

Received from the House  
February 22, 1972

*Senate concurred as amended 2-23 (498)*

1 Amend the House amendment to Senate File 334 by striking  
2 lines 4 through 8 inclusive.

Filed and adopted  
February 23, 1972

By SHAWVER

*Senate*

1 Amend Senate File 334 as follows:  
2 1. Page 3, line 4, by striking all after the  
3 period and all of lines 5 through 10.  
4 2. Page 3, by striking all after the word  
5 "collect" in line 24 and all of lines 25  
6 through 35 and inserting in lieu thereof the  
7 following: "two dollars for each vending  
8 machine operated."  
9 3. Page 4, by striking lines 1 and 2.

Filed - *Dis. 1 adopted as amended* By SCHROEDER of Pottawattamie  
February 10, 1972 *Dis. 2 adopted*  
*2/18/72 (565)*

*Dis. 1*  
*Dis. 2*

1 Amend the Schroeder of Pottawattamie amendment to  
2 Senate File 334, filed February 10, 1972, by striking  
3 all of lines 2 and 3 and inserting in lieu thereof  
4 the following:  
5 "1. Page 3, by striking from line 5 the words  
6 "confections, cookie, crackers,".

Filed - *adopted 2-18-72 (565)*  
February 17, 1972

By SMALL of Johnson

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 334

1 Amend the House amendment to Senate File 334 by striking lines  
2 4 through 8, inclusive.

Received from the Senate  
February 23, 1972

*House concurred 2-29-72*  
*(849)*  
*Motion to reconsider filed 3-1-72 (867)*