

State Government  
Lura, Chair  
Welsh  
Bruner

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SENATE FILE 228

BY KINLEY

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the regulation and inspection of food ser-  
2 vice establishments, food and beverage vending machines,  
3 and hotels.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 228

1 Section 1. Section 135.11, Code 1983, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. Enforce the Iowa food service sanita-  
4 tion code as set forth in chapter 170A.

5 NEW SUBSECTION. Enforce the Iowa hotel sanitation code  
6 as set forth in chapter 170B.

7 NEW SUBSECTION. Enforce the laws relating to food and  
8 beverage vending machines as set forth in chapter 191A.

9 Sec. 2. Section 135.11, subsection 5, Code 1983, is amended  
10 to read as follows:

11 5. Make inspections of the sanitary conditions in the  
12 educational, charitable, correctional, and penal institutions  
13 in the state. ~~However, the secretary of agriculture shall~~  
14 ~~make inspections for sanitation of the areas where food is~~  
15 ~~prepared or served in the adult penal and correctional~~  
16 ~~facilities and the juvenile facilities as provided in section~~  
17 ~~159.5, subsection 14.~~

18 Sec. 3. Section 159.5, subsection 14, Code 1983, is amended  
19 by striking the subsection.

20 Sec. 4. Section 159.6, subsections 11 and 12, Code 1983,  
21 are amended by striking the subsections.

22 Sec. 5. Section 170A.2, subsection 2, Code 1983, is amended  
23 by striking the subsection and inserting in lieu thereof the  
24 following:

25 2. "Commissioner" means the commissioner of public health.

26 Sec. 6. Section 170A.2, subsection 3, Code 1983, is amended  
27 to read as follows:

28 3. "Department" means the state department of ~~agriculture~~  
29 health.

30 Sec. 7. Section 170A.2, subsection 10, Code 1983, is  
31 amended to read as follows:

32 10. "Regulatory authority" means the state department  
33 of ~~agriculture~~ health or a local board of health that has  
34 entered into an agreement with the ~~secretary of agriculture~~  
35 commissioner pursuant to section 170A.4 for authority to

1 enforce the Iowa food service sanitation code in its  
2 jurisdiction.

3 Sec. 8. Section 170A.3, Code 1983, is amended to read  
4 as follows:

5 170A.3 ADOPTION BY RULE. As soon as practicable, the  
6 ~~secretary~~ commissioner shall adopt the food service sanitation  
7 ordinance (section 170A.2(12)) by rule as part of the Iowa  
8 food service sanitation code with the following exceptions:

9 1. 1-102(h), (i), and (z) shall be deleted.

10 2. 1-104 shall be deleted.

11 3. 10-101 shall be amended so that the following food  
12 service establishments are exempt from the license require-  
13 ment:

14 a. Food service operations in schools.

15 b. Places used by churches, fraternal societies, and civic  
16 organizations which engage in the serving of food not more  
17 often than ten times per month.

18 4. 10-101 shall also be amended so that a license issued  
19 by the department of agriculture prior to January 1, 1979  
20 1984, shall be valid until its expiration date.

21 4 5. 10-201 shall be amended so that food service opera-  
22 tions in schools and summer camps shall be inspected at least  
23 once every year instead of twice every year.

24 5 6. 10-601 shall be deleted.

25 Sec. 9. Section 170A.4, Code 1983, is amended to read  
26 as follows:

27 170A.4 AUTHORITY TO ENFORCE THE IOWA FOOD SERVICE SANITA-  
28 TION CODE. The ~~secretary~~ commissioner has ~~sole~~ and exclusive  
29 authority to regulate, license, and inspect food service  
30 establishments and to enforce the Iowa food service sanitation  
31 code in Iowa. Municipal corporations shall not regulate,  
32 license, inspect, or collect license fees from food service  
33 establishments except as provided for in the Iowa food service  
34 sanitation code.

35 If a municipal corporation wants its local board of health

1 to license, inspect, and otherwise enforce the Iowa food  
2 service sanitation code within its jurisdiction, the municipal  
3 corporation may enter into an agreement to do so with the  
4 ~~secretary~~ commissioner. The ~~secretary~~ commissioner may enter  
5 into such an agreement if the ~~secretary~~ commissioner finds  
6 that the local board of health has adequate resources to  
7 perform the required functions. A municipal corporation may  
8 only enter into an agreement to enforce the Iowa food service  
9 sanitation code if it also agrees to enforce the Iowa hotel  
10 sanitation code pursuant to section 170B.3 and to enforce  
11 the food and beverage vending machine laws pursuant to section  
12 191A.14. To avoid duplication of inspection, the department,  
13 not a local board of health, shall inspect a food service  
14 establishment located within a food establishment.

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

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

24 1. The total number of food service establishment licenses  
25 granted or renewed during the year.

26 2. The number of food service establishment licenses  
27 granted or renewed during the year broken down into the  
28 following categories:

29 a. Mobile food units and pushcarts.

30 b. Temporary food service establishments.

31 c. Food service establishments with annual gross sales  
32 of under fifty thousand dollars other than mobile food units,  
33 pushcarts, or temporary food service establishments.

34 d. Food service establishments with annual gross sales  
35 of between fifty thousand and one hundred thousand dollars

1 other than mobile food units, pushcarts, or temporary food  
2 service establishments.

3 e. Food service establishments with annual gross sales  
4 of more than one hundred thousand but less than two hundred  
5 fifty thousand dollars other than mobile food units, pushcarts,  
6 or temporary food service establishments.

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

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

13 4. Other information the ~~secretary~~ commissioner requests.

14 The ~~secretary~~ commissioner shall monitor local boards of  
15 health to determine if they are enforcing the Iowa food service  
16 sanitation code within their respective jurisdictions. If  
17 the ~~secretary~~ commissioner determines that the Iowa food  
18 service sanitation code is enforced by a local board of health,  
19 such enforcement shall be accepted in lieu of enforcement  
20 by the department in that jurisdiction. If the ~~secretary~~  
21 commissioner determines that the Iowa food service sanitation  
22 code is not enforced by a local board of health, the ~~secretary~~  
23 commissioner may rescind the agreement after reasonable notice  
24 and an opportunity for a hearing. If the agreement is  
25 rescinded, the ~~secretary~~ commissioner shall assume  
26 responsibility for enforcement in the jurisdiction involved.

27 Sec. 10. Section 170B.2, subsection 1, Code 1983, is  
28 amended by striking the subsection and inserting in lieu  
29 thereof the following:

30 1. "Commissioner" means the commissioner of public health.

31 Sec. 11. Section 170B.2, subsection 2, Code 1983, is  
32 amended to read as follows:

33 2. "Department" means the state department of agricul-  
34 ~~tural~~ ture health.

35 Sec. 12. Section 170B.2, subsection 7, Code 1983, is

1 amended to read as follows:

2 7. "Regulatory authority" means the state department of  
3 ~~agriculture~~ health or a local board of health that has entered  
4 into an agreement with the ~~secretary~~ commissioner pursuant  
5 to section 170B.3 for authority to enforce the Iowa hotel  
6 sanitation code in its jurisdiction.

7 Sec. 13. Section 170B.3, Code 1983, is amended to read  
8 as follows:

9 170B.3 AUTHORITY TO ENFORCE THE IOWA HOTEL SANITATION  
10 CODE. The ~~secretary~~ commissioner has ~~sole-and~~ exclusive  
11 authority to regulate, license, and inspect hotels and to  
12 enforce the Iowa hotel sanitation code in Iowa. Municipal  
13 corporations shall not regulate, license, inspect, or collect  
14 license fees from hotels except as provided for in the Iowa  
15 hotel sanitation code.

16 If a municipal corporation wants its local board of health  
17 to license, inspect, and otherwise enforce the Iowa hotel  
18 sanitation code within its jurisdiction, the municipal  
19 corporation may enter into an agreement to do so with the  
20 ~~secretary~~ commissioner. The ~~secretary~~ commissioner may enter  
21 into such an agreement if the ~~secretary~~ commissioner finds  
22 that the local board of health has adequate resources to  
23 perform the required functions. A municipal corporation may  
24 only enter into an agreement to enforce the Iowa hotel  
25 sanitation code if it also agrees to enforce the Iowa food  
26 service sanitation code pursuant to section ~~170B-4~~ 170A.4  
27 and to enforce the food and beverage vending machine laws  
28 pursuant to section 191A.14.

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

33 1. The total number of hotel licenses granted or renewed  
34 during the year.

35 2. The number of hotel licenses granted or renewed during

- 1 the year broken down into the following categories:
- 2 a. Hotels containing fifteen guest rooms or less.
- 3 b. Hotels containing more than fifteen but less than
- 4 thirty-one guest rooms.
- 5 c. Hotels containing more than thirty but less than
- 6 seventy-six guest rooms.
- 7 d. Hotels containing more than seventy-five but less than
- 8 one hundred fifty guest rooms.
- 9 e. Hotels containing one hundred fifty or more guest
- 10 rooms.
- 11 3. The amount of money collected in license fees during
- 12 the year.
- 13 4. Other information the ~~secretary~~ commissioner requests.
- 14 The ~~secretary~~ commissioner shall monitor local boards of
- 15 health to determine if they are enforcing the Iowa hotel
- 16 sanitation code within their respective jurisdictions. If
- 17 the ~~secretary~~ commissioner determines that the Iowa hotel
- 18 sanitation code is enforced by a local board of health, such
- 19 enforcement shall be accepted in lieu of enforcement by the
- 20 department in that jurisdiction. If the ~~secretary~~ commissioner
- 21 determines that the Iowa hotel sanitation code is not enforced
- 22 by a local board of health, the ~~secretary~~ commissioner may
- 23 rescind the agreement after reasonable notice and an
- 24 opportunity for a hearing. If the agreement is rescinded,
- 25 the ~~secretary~~ commissioner shall assume responsibility for
- 26 enforcement in the jurisdiction involved.
- 27 Sec. 14. Section 170B.4, Code 1983, is amended to read
- 28 as follows:
- 29 170B.4 LICENSE REQUIRED. ~~No~~ A person shall not open or
- 30 operate a hotel until a license has been obtained from the
- 31 regulatory authority and until the hotel has been inspected
- 32 by the regulatory authority. A license issued by the depart-
- 33 ment of agriculture prior to ~~January 1, 1979~~ July 1, 1983,
- 34 shall be valid until its expiration date. An inspection
- 35 conducted by the department of agriculture prior to January

1 1, 1979-~~shall-be~~ 1983, is valid for purposes of this section.  
2 Each license shall expire one year from date of issue. A  
3 license is renewable. All licenses issued under the Iowa  
4 hotel sanitation code that are not renewed by the licensee  
5 on or before the expiration date ~~shall-be~~ are subject to a  
6 penalty of ten percent of the license fee if the license is  
7 renewed at a later date. A license is not transferable.

8 Sec. 15. Section 191A.1, subsection 2, Code 1983, is  
9 amended by striking the subsection and inserting in lieu  
10 thereof the following:

11 2. "Commissioner" means the commissioner of public health.

12 Sec. 16. Section 191A.1, subsection 3, Code 1983, is  
13 amended to read as follows:

14 3. "Department" means the state department of ~~agriculture~~  
15 health.

16 Sec. 17. Section 191A.1, subsection 10, Code 1983, is  
17 amended to read as follows:

18 10. "Regulatory authority" means the state department  
19 of ~~agriculture~~ health or a local board of health that has  
20 entered into an agreement with the ~~secretary-of-agriculture~~  
21 commissioner pursuant to section 191A.14 for authority to  
22 enforce the food and beverage vending machine laws in its  
23 jurisdiction.

24 Sec. 18. Section 191A.2, Code 1983, is amended to read  
25 as follows:

26 191A.2 LICENSE TO OPERATE. ~~No~~ A person shall not operate  
27 one or more vending machines until a vending machine operator's  
28 license has been obtained from the regulatory authority.  
29 The annual license shall expire one year from the date of  
30 original issuance and is renewable. Vending machines  
31 dispensing only ball gum, or similar nonperishable snacks  
32 as prescribed and defined by regulation of the ~~secretary~~  
33 commissioner, or bottled or canned soft drinks ~~shall~~ do not  
34 require a license ~~or-be~~ and are not subject to the fee schedule  
35 provided in this chapter, but they may be inspected pursuant

1 to section 191A.8.

2 Sec. 19. Section 191A.3, Code 1983, is amended to read  
3 as follows:

4 191A.3 APPLICATION. An application for a vending machine  
5 operator's license shall be made upon a form furnished by  
6 the regulatory authority. The application form shall provide  
7 for obtaining information relating to ownership of  
8 commissaries, location of commissaries, location of shops  
9 and other servicing centers, and the total number of licensable  
10 vending machines by general product type owned and operated  
11 by the applicant and other information required by the  
12 ~~secretary~~ commissioner. The operator shall agree in the  
13 application to maintain within the jurisdiction of the  
14 regulatory authority a complete list of all vending machines  
15 and machine locations operated by the applicant and to make  
16 the list available to the regulatory authority at the time  
17 of inspection or auditing.

18 Sec. 20. Section 191A.7, Code 1983, is amended to read  
19 as follows:

20 191A.7 DISCIPLINARY ACTION. A license issued under this  
21 chapter may be revoked by the regulatory authority for viola-  
22 tion by the licensee of a provision of this chapter or an  
23 applicable rule of the department. In lieu of license revoca-  
24 tion, the regulatory authority may require the immediate dis-  
25 continuance of operation of a vending machine or commissary  
26 whenever it finds insanitary conditions or 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. A person whose license is revoked, or  
30 who is ordered to discontinue the operation of a vending  
31 machine or commissary, may appeal that decision to the  
32 ~~secretary~~ commissioner. The ~~secretary~~ commissioner or the  
33 ~~secretary's~~ commissioner's designee shall schedule and hold  
34 a hearing upon the appeal not later than thirty days from  
35 the time of revocation or the order of discontinuance. The

1 ~~secretary~~ commissioner shall issue a decision immediately  
2 following the hearing. Judicial review may be sought in  
3 accordance with ~~the terms of the Iowa administrative procedure~~  
4 Act chapter 17A.

5 Sec. 21. Section 191A.14, Code 1983, is amended to read  
6 as follows:

7 191A.14 AUTHORITY TO ENFORCE THE FOOD AND BEVERAGE VENDING  
8 MACHINE LAWS. The ~~secretary~~ commissioner has ~~sole and~~  
9 exclusive authority to regulate, license, and inspect food  
10 and beverage vending machines and operators and to otherwise  
11 enforce the food and beverage vending machine laws. Municipal  
12 corporations shall not regulate, license, inspect, or collect  
13 license fees for food and beverage vending machines or their  
14 operation except pursuant to this section.

15 If a municipal corporation wants its local board of health  
16 to enforce the food and beverage vending machine laws within  
17 its jurisdiction, the municipal corporation may enter into  
18 an agreement to do so with the ~~secretary~~ commissioner. The  
19 ~~secretary~~ commissioner may enter into such an agreement if  
20 the ~~secretary~~ commissioner finds that the local board of  
21 health has adequate resources to perform the required  
22 functions. A municipal corporation may only enter into an  
23 agreement to enforce the food and beverage vending machine  
24 laws if it also agrees to enforce the Iowa food service  
25 sanitation code pursuant to section 170A.4 and to enforce  
26 the Iowa hotel sanitation code pursuant to section 170B.3.

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

32 1. The total number of food or beverage vending machine  
33 operator's licenses granted or renewed during the year.

34 2. The amount of money collected in license fees during  
35 the year.



SENATE FILE 228  
FISCAL NOTE

REQUESTED BY SENATOR KINLEY

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 228 pursuant to Joint Rule 17.

S.F. 228 amends Chapters 170A and 135 of the Iowa Code by transferring the responsibility for enforcing the Iowa food service sanitation code from the Department of Agriculture to the Department of Health.

The expense under the current law and the proposed bill is compared in the following Table.

	<u>Current Law</u>		<u>S.F. 228</u>	
	<u>FY '84</u>	<u>FY '85</u>	<u>FY '84</u>	<u>FY '85</u>
Salaries	\$ 584,000	\$ 589,000	\$ 469,510	\$ 469,510
Operations*	<u>46,720</u>	<u>47,120</u>	<u>131,672</u>	<u>131,672</u>
<b>TOTAL</b>	<b>\$ <u>630,720</u></b>	<b>\$ <u>636,120</u></b>	<b>\$ <u>601,182</u></b>	<b>\$ <u>601,182</u></b>
Difference S.F.228, from Current Law:			<u>FY '84</u>	<u>FY '85</u>
			(\$29,538)	(\$34,938)

This bill would result in the savings of \$29, 538 for FY '84 and \$34,938 for FY '85.

In addition, fees generated to cover the cost of the program are estimated as such:

	<u>FY '84</u>	<u>FY '85</u>
Fees	\$ 434,820	\$ 434,820

A state appropriation would be required to cover the difference between the cost and expected revenue.

\*This figure is estimated to be 8% due to the unavailability of this information from the Dept. of Agriculture.

(115S, 83-014, KAC)

SOURCE: DEPT OF HEALTH

DEPT OF AGRICULTURE

RECEIVED BY THE SECRETARY OF THE SENATE, FEBRUARY 9, 1983

FILED: BY LEGISLATIVE FISCAL BUREAU  
FEBRUARY 15, 1983 DENNIS C. PROUTY, DIRECTOR