

Senate File 2394 - Enrolled

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SENATE FILE 2394

AN ACT

RELATING TO MANUFACTURED OR MOBILE HOME REGULATION, AND
INCLUDING FEE, PENALTY, AND EFFECTIVE DATE PROVISIONS.

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

DIVISION IV

MANUFACTURED AND MOBILE HOME REGULATION

Section 1. NEW SECTION. 103A.51 DEFINITIONS.

As used in this division, unless the context otherwise

requires:

1. "Ground anchoring system" means any device or combination of devices used to securely anchor a manufactured or mobile home to the ground.

2. "Ground support system" means any device or combination of devices placed beneath a manufactured or mobile home and used to provide support.

3. "Home" means a manufactured home, mobile home, or modular home.

4. "Manufactured home" means a factory-built structure built under the authority of 42 U.S.C. } 5403, that is required by federal law to display a seal required by the United States department of housing and urban development, and was constructed on or after June 15, 1976.

5. "Manufactured or mobile home distributor" means a person who sells or distributes manufactured or mobile homes to manufactured or mobile home retailers.

6. "Manufactured or mobile home manufacturer" means a person engaged in the business of fabricating or assembling manufactured or mobile homes.

7. "Manufactured or mobile home retailer" means a person who, for a commission or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale or exchange of an interest in a home or who is engaged wholly or in part in the business of selling homes, whether or not the homes are owned by the retailer. "Manufactured or mobile home retailer" does not include any of the following:

a. A receiver, trustee, administrator, executor, guardian, attorney, or other person appointed by or acting under the judgment or order of a court to transfer an interest in a home.

b. A person transferring a home registered in the person's name and used for personal, family, or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

c. A person who transfers an interest in a home only as an incident to engaging in the business of financing new or used homes.

d. A person who exclusively sells modular homes.

8. "Mobile home" means a structure, transportable in one or more sections, which exceeds eight feet in width and thirty-two feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.

9. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, as adopted pursuant to section 103A.7, and displays a seal issued by the commissioner.

10. "New home" means a home that has not been sold at retail.

11. "Permanent site" means any lot or parcel of land on which a manufactured or mobile home used as a dwelling or place of business is located for ninety consecutive days, except a construction site when the manufactured or mobile home is used by a commercial contractor as a construction office or storage room.

3 4 12. "Preowned home" means a home that has been previously
3 5 sold at retail.

3 6 13. "Retailer's inventory" means homes offered for sale at
3 7 the retailer's licensed address or at any mobile home park or
3 8 land=leased community so long as the title of the home is in
3 9 the retailer's name and the home is not being occupied.

3 10 14. "Sell at retail" means to sell a home to a person who
3 11 will devote it to a consumer use.

3 12 15. "Tiedown system" means a ground support system and a
3 13 ground anchoring system used in concert to provide anchoring
3 14 and support for a manufactured or mobile home.

3 15 Sec. 2. NEW SECTION. 103A.52 MANUFACTURED OR MOBILE HOME
3 16 RETAILER LICENSE == PROCEDURE.

3 17 1. LICENSE APPLICATION. A manufactured or mobile home
3 18 retailer shall file with the commissioner an application for
3 19 license as a manufactured or mobile home retailer as the
3 20 commissioner may prescribe.

3 21 2. LICENSE FEE. The license fee for a manufactured or
3 22 mobile home retailer is an annual fee of one hundred dollars.
3 23 If the application is denied, the commissioner shall refund
3 24 the fee.

3 25 3. SURETY BOND. Before the issuance of a manufactured or
3 26 mobile home retailer's license, an applicant for a license
3 27 shall file with the commissioner a surety bond executed by the
3 28 applicant as principal and executed by a corporate surety
3 29 company, licensed and qualified to do business within this
3 30 state, which bond shall run to the state, be in the amount of
3 31 fifty thousand dollars, and be conditioned upon the faithful
3 32 compliance by the applicant as a retailer with all of the
3 33 statutes of this state regulating the business of the retailer
3 34 and indemnifying any person dealing or transacting business
3 35 with the retailer in connection with a manufactured or mobile
4 1 home from a loss or damage occasioned by the failure of the
4 2 retailer to comply with this division, including but not
4 3 limited to the furnishing of a proper and valid document of
4 4 title to the manufactured or mobile home involved in the
4 5 transaction.

4 6 4. MANUFACTURED OR MOBILE HOME HOOKUPS. A licensed
4 7 manufactured or mobile home retailer or an employee of a
4 8 licensed manufactured or mobile home retailer may perform
4 9 water, gas, electrical, and other utility service connections
4 10 in a manufactured or mobile home space, or within ten feet of
4 11 such space, located in a manufactured home community or mobile
4 12 home park. The licensed retailer or an employee of the
4 13 retailer is not required to obtain any additional state or
4 14 local authorization, permit, or license to perform utility
4 15 service connections. However, the utility service connections
4 16 are subject to inspection and approval by the local building
4 17 department and the manufactured or mobile home retailer shall
4 18 pay the inspection fee, if any.

4 19 Sec. 3. NEW SECTION. 103A.53 LICENSE APPLICATION AND
4 20 FEES.

4 21 Upon application and payment of a one hundred dollar fee, a
4 22 person may be licensed as a manufacturer or distributor of
4 23 manufactured or mobile homes. The application shall be in the
4 24 form and shall contain information as the commissioner
4 25 prescribes. The license shall be granted or refused within
4 26 thirty days after application. The license expires, unless
4 27 sooner revoked or suspended by the commissioner, on December
4 28 31 of the calendar year for which the license was granted. A
4 29 licensee shall have the month of December of the calendar year
4 30 for which the license was granted and the following month of
4 31 January to renew the license. A person who fails to renew a
4 32 license by the end of this time period and desires to hold a
4 33 license shall file a new license application and pay the
4 34 required fee.

4 35 Sec. 4. NEW SECTION. 103A.54 FEES.

5 1 Notwithstanding section 103A.23, the department of public
5 2 safety shall retain all fees collected pursuant to this
5 3 division and the fees retained are appropriated to the
5 4 commissioner to administer the licensing program and the
5 5 certification program for manufactured or mobile home
5 6 installers, including the employment of personnel for the
5 7 enforcement and administration of such programs.

5 8 Sec. 5. NEW SECTION. 103A.55 REVOCATION, SUSPENSION, AND
5 9 DENIAL OF LICENSE.

5 10 The commissioner may revoke, suspend, or refuse the license
5 11 of a manufactured or mobile home retailer, manufactured or
5 12 mobile home manufacturer, or manufactured or mobile home
5 13 distributor, as applicable, if the commissioner finds that the
5 14 manufactured or mobile home retailer, manufacturer, or

5 15 distributor is guilty of any of the following acts or
5 16 offenses:

5 17 1. Fraud in procuring a license.

5 18 2. Knowingly making misleading, deceptive, untrue, or
5 19 fraudulent representations in the business of a manufactured
5 20 or mobile home retailer, manufacturer, or distributor or
5 21 engaging in unethical conduct or practice harmful or
5 22 detrimental to the public.

5 23 3. Conviction of a felony related to the business of a
5 24 manufactured or mobile home retailer, manufacturer, or
5 25 distributor. A copy of the record of conviction or plea of
5 26 guilty shall be sufficient evidence for the purposes of this
5 27 section.

5 28 4. Failing upon the sale or transfer of a manufactured or
5 29 mobile home to deliver to the purchaser or transferee of the
5 30 manufactured or mobile home sold or transferred, a
5 31 manufacturer's or importer's certificate, or a certificate of
5 32 title duly assigned, as provided in chapter 321.

5 33 5. Failing upon the purchasing or otherwise acquiring of a
5 34 manufactured or mobile home to obtain a manufacturer's or
5 35 importer's certificate, a new certificate of title, or a
6 1 certificate of title duly assigned as provided in chapter 321.

6 2 6. Failing to apply for and obtain from a county treasurer
6 3 a certificate of title for a used manufactured or mobile home,
6 4 titled in Iowa, acquired by the retailer within thirty days
6 5 from the date of acquisition, as required under section
6 6 321.45, subsection 4.

6 7 A person whose license is revoked or suspended or whose
6 8 application for a license is denied may appeal the revocation,
6 9 suspension, or denial in accordance with chapter 17A,
6 10 including the opportunity for an evidentiary hearing.

6 11 Sec. 6. NEW SECTION. 103A.56 RULES.

6 12 The commissioner shall prescribe rules under chapter 17A
6 13 for the administration and enforcement of this division. The
6 14 commissioner shall prescribe forms to be used in connection
6 15 with the licensing of persons under this division.

6 16 Sec. 7. NEW SECTION. 103A.57 UNLAWFUL PRACTICE ==
6 17 CRIMINAL PENALTY.

6 18 It is unlawful for a person to engage in business as a
6 19 manufactured or mobile home retailer, manufacturer or mobile
6 20 home manufacturer, or manufacturer or mobile home distributor
6 21 in this state without first acquiring and maintaining a
6 22 license in accordance with this division. A person convicted
6 23 of violating this section is guilty of a serious misdemeanor.

6 24 Sec. 8. NEW SECTION. 103A.58 MANUFACTURED HOME, MOBILE
6 25 HOME, AND MODULAR HOME RETAIL INSTALLMENT CONTRACT == FINANCE
6 26 CHARGE.

6 27 1. A retail installment contract or agreement for the sale
6 28 of a manufactured home, mobile home, or modular home may
6 29 include a finance charge not in excess of an amount equivalent
6 30 to one and three-fourths percent per month simple interest on
6 31 the declining balance of the amount financed.

6 32 2. For purposes of this section, "amount financed" means
6 33 the same as defined in section 537.1301.

6 34 3. The limitations contained in this section do not apply
6 35 in a transaction referred to in section 535.2, subsection 2.

7 1 With respect to a consumer credit sale, as defined in section
7 2 537.1301, the limitations contained in this section supersede
7 3 conflicting provisions of chapter 537, article 2, part 2.

7 4 Sec. 9. NEW SECTION. 103A.59 MANUFACTURED OR MOBILE HOME
7 5 INSTALLERS CERTIFICATION == VIOLATION == CIVIL PENALTY.

7 6 1. A person who installs a manufactured or mobile home for
7 7 another person shall be certified in accordance with rules
7 8 adopted by the commissioner pursuant to chapter 17A. The
7 9 commissioner may assess a fee sufficient to recover the costs
7 10 of administering the certification of manufactured or mobile
7 11 home installers. The commissioner may suspend or revoke the
7 12 certification of a manufacturer or mobile home installer for
7 13 failure to perform installation of a manufactured or mobile
7 14 home pursuant to certification standards as provided by rules
7 15 of the commissioner.

7 16 2. If a provision of this chapter or a rule adopted
7 17 pursuant to this chapter relating to the manufacture or
7 18 installation of a manufactured or mobile home is violated, the
7 19 commissioner may assess a civil penalty not to exceed one
7 20 thousand dollars for each offense. Each violation involving a
7 21 separate manufactured or mobile home, or a separate failure or
7 22 refusal to allow an act to be performed or to perform an act
7 23 as required by this chapter or a rule adopted pursuant to this
7 24 chapter, constitutes a separate offense. However, the maximum
7 25 amount of civil penalties which may be assessed for any series

7 26 of violations occurring within one year from the date of the
7 27 first violation shall not exceed one million dollars.
7 28 Sec. 10. NEW SECTION. 103A.60 APPROVED TIEDOWN SYSTEM ==
7 29 PROVIDED AT SALE == INSTALLATION.
7 30 A manufactured or mobile home retailer shall provide an
7 31 approved tiedown system. The purchaser shall install or have
7 32 installed such system within one hundred fifty days of
7 33 locating the manufactured or mobile home on a permanent site.
7 34 Sec. 11. NEW SECTION. 103A.61 INSTALLER COMPLIANCE AND
7 35 CERTIFICATION.
8 1 A person who installs a tiedown system shall comply with
8 2 the minimum standards for such systems, and shall provide the
8 3 owner of the manufactured or mobile home on which installation
8 4 is made and the commissioner with a certification of approved
8 5 system installation. Such certification shall be in proper
8 6 form as established by the commissioner.
8 7 Sec. 12. NEW SECTION. 103A.62 LISTING AND FORM OF
8 8 CERTIFICATION OF APPROVED SYSTEMS PROVIDED.
8 9 The commissioner shall provide, upon request, a list of
8 10 approved tiedown systems and instructions for the completion
8 11 of proper certification of approved system installation.
8 12 Sec. 13. NEW SECTION. 103A.63 COMPLIANCE.
8 13 When it appears that a retailer, purchaser, or other person
8 14 is in noncompliance with the provisions of sections 103A.60
8 15 through 103A.62, the commissioner shall prescribe a period of
8 16 time not to exceed one hundred fifty days within which
8 17 compliance must be achieved and the commissioner shall so
8 18 notify the retailer, purchaser, or other person.
8 19 Sec. 14. Section 103A.3, subsections 10, 11, 21, and 26,
8 20 Code 2005, are amended by striking the subsections.
8 21 Sec. 15. Section 103A.3, subsection 16, Code 2005, is
8 22 amended to read as follows:
8 23 16. "Manufactured home", "mobile home", and "modular home"
8 24 mean the same as defined in section ~~435.1~~ 103A.51.
8 25 Sec. 16. Section 103A.10, subsection 3, Code 2005, is
8 26 amended to read as follows:
8 27 3. Provisions of the state building code relating to the
8 28 manufacture and installation of factory=built structures shall
8 29 apply throughout the state. Factory=built structures approved
8 30 by the commissioner shall be deemed to comply with all
8 31 building regulations applicable to its manufacture and
8 32 installation and shall be exempt from any other state or local
8 33 building regulations.
8 34 Sec. 17. Section 321.45, subsection 4, Code 2005, is
8 35 amended to read as follows:
9 1 4. After acquiring a used mobile home or manufactured home
9 2 to be titled in Iowa, a manufactured or mobile home retailer,
9 3 as defined in section ~~322B.2~~ 103A.51 shall within thirty days
9 4 apply for and obtain from the county treasurer of the
9 5 retailer's county of residence a new certificate of title for
9 6 the mobile home or manufactured home. In the event that there
9 7 is a prior lien or encumbrance to be released, as required by
9 8 section 321.50, subsection 5, the thirty=day time period in
9 9 this subsection does not begin to run until the lien or
9 10 encumbrance is released.
9 11 Sec. 18. Section 321.57, subsection 5, Code 2005, is
9 12 amended by striking the subsection.
9 13 Sec. 19. Section 321.58, Code 2005, is amended to read as
9 14 follows:
9 15 321.58 APPLICATION.
9 16 All dealers, transporters, and new motor vehicle
9 17 wholesalers licensed under chapter 322, ~~and manufactured or~~
~~9 18 mobile home retailers licensed under chapter 322B~~, upon
9 19 payment of a fee of seventy dollars for two years, one hundred
9 20 forty dollars for four years, or two hundred ten dollars for
9 21 six years, may make application to the department upon the
9 22 appropriate form for a certificate containing a general
9 23 distinguishing number and for one or more special plates as
9 24 appropriate to various types of vehicles subject to
9 25 registration. The applicant shall also submit proof of the
9 26 applicant's status as a bona fide transporter, new motor
9 27 vehicle wholesaler licensed under chapter 322, ~~manufactured or~~
~~9 28 mobile home retailer licensed under chapter 322B~~, or dealer,
9 29 as reasonably required by the department. Dealers in new
9 30 vehicles shall furnish satisfactory evidence of a valid
9 31 franchise with the manufacturer of the vehicles authorizing
9 32 the dealership.
9 33 Sec. 20. Section 322B.3, subsection 5, Code 2005, is
9 34 amended to read as follows:
9 35 5. MANUFACTURED OR MOBILE HOME HOOKUPS. A manufactured or
10 1 mobile home retailer or an employee of a manufactured or

10 2 mobile home retailer may perform water, gas, electrical, and
10 3 other utility service connections in a manufactured or mobile
10 4 home space, or within ten feet of such space, located in a
10 5 ~~manufactured home community or mobile home park, and the~~
~~10 6 retailer or an employee of the retailer may install a tiedown~~
~~10 7 system on a manufactured or mobile home located in a~~
10 8 manufactured home community or mobile home park. The licensed
10 9 retailer or an employee of the retailer is not required to
10 10 obtain any additional state or local authorization, permit, or
10 11 license to perform utility service connections. However, the
10 12 utility service connections are subject to inspection and
10 13 approval by local building code officials and the manufactured
10 14 or mobile home retailer shall pay the inspection fee, if any.

10 15 Sec. 21. Section 523H.1, subsection 3, paragraph c, Code
10 16 2005, is amended to read as follows:

10 17 c. "Franchise" also does not include any contract under
10 18 which a petroleum retailer or petroleum distributor is
10 19 authorized or permitted to occupy leased marketing premises,
10 20 which premises are to be employed in connection with the sale,
10 21 consignment, or distribution of motor fuel under a trademark
10 22 which is owned or controlled by a refiner which is regulated
10 23 by the federal Petroleum Marketing Practices Act, 15 U.S.C. }
10 24 2801 et seq. The term "refiner" means any person engaged in
10 25 the refining of crude oil to produce motor fuel, and includes
10 26 any affiliate of such person. "Franchise" also does not
10 27 include a contract entered into by any person regulated under
10 28 chapter 103A, division IV, or chapter 123, 322, 322A, ~~322B,~~
10 29 322C, 322D, 322F, 522B, or 543B, or a contract establishing a
10 30 franchise relationship with respect to the sale of
10 31 construction equipment, lawn or garden equipment, or real
10 32 estate.

10 33 Sec. 22. Section 537A.10, subsection 1, paragraph c,
10 34 subparagraph (3), Code 2005, is amended to read as follows:

10 35 (3) "Franchise" also does not include any contract under
11 1 which a petroleum retailer or petroleum distributor is
11 2 authorized or permitted to occupy leased marketing premises,
11 3 which premises are to be employed in connection with the sale,
11 4 consignment, or distribution of motor fuel under a trademark
11 5 which is owned or controlled by a refiner which is regulated
11 6 by the federal Petroleum Marketing Practices Act, 15 U.S.C. }
11 7 2801 et seq. The term "refiner" means any person engaged in
11 8 the refining of crude oil to produce motor fuel, and includes
11 9 any affiliate of such person. "Franchise" also does not
11 10 include a contract entered into by any person regulated under
11 11 chapter 103A, division IV, or chapter 123, 322, 322A, ~~322B,~~
11 12 322C, 322D, 322F, 522B, or 543B, or a contract establishing a
11 13 franchise relationship with respect to the sale of
11 14 construction equipment, lawn or garden equipment, or real
11 15 estate.

11 16 Sec. 23. Section 103A.26 and sections 103A.30 through
11 17 103A.33, Code 2005, are repealed.

11 18 Sec. 24. Chapter 322B, Code 2005, is repealed.

11 19 Sec. 25. TRANSITION. The state department of
11 20 transportation shall refund any portion of a license fee paid
11 21 pursuant to chapter 322B prior to the effective date of this
11 22 Act that remains unexpired as of January 1, 2007, to the
11 23 licensee that paid the fee.

11 24 Sec. 26. EFFECTIVE DATE. The sections of this Act
11 25 amending section 103A.10, subsection 3, and section 322B.3,
11 26 subsection 5, being deemed of immediate importance, take
11 27 effect upon enactment. The remainder of this Act takes effect
11 28 on January 1, 2007.
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11 32 _____
11 33 JEFFREY M. LAMBERTI
11 34 President of the Senate
11 35

12 1 _____
12 2 CHRISTOPHER C. RANTS
12 3 Speaker of the House
12 4

12 5 I hereby certify that this bill originated in the Senate and
12 6 is known as Senate File 2394, Eighty-first General Assembly.
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12 10 _____
12 11 MICHAEL E. MARSHALL
12 12 Secretary of the Senate

12 12 Approved _____, 2006

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12 16 THOMAS J. VILSACK

12 17 Governor