

JAN 27 1998  
WAYS AND MEANS

HOUSE FILE **2107**  
BY BLODGETT

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to regulation of food establishments and  
2 providing for fees and penalties and providing an effective  
3 date.

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

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**HOUSE FILE 2107**

H-8018

1 Amend House File 2107 as follows:

2 1. Page 2, line 27, by striking the word "two"  
3 and inserting the following: "four".

By RICHARDSON of Warren

H-8018 FILED FEBRUARY 9, 1998

**HF 2107**

1 Section 1. Section 10A.104, subsection 9, Code 1997, is  
2 amended to read as follows:

3 9. Administer and enforce this chapter, and chapters 99B,  
4 135B, 135C, 135G, 135H, 135J, ~~137A, 137B,~~ 137C, 137D, and ~~137E~~  
5 137F.

6 Sec. 2. Section 100.35, unnumbered paragraph 1, Code 1997,  
7 is amended to read as follows:

8 The fire marshal shall adopt, and may amend rules under  
9 chapter 17A, which include standards relating to exits and  
10 exit lights, fire escapes, fire protection, fire safety and  
11 the elimination of fire hazards, in and for churches, schools,  
12 hotels, theaters, amphitheaters, hospitals, health care  
13 facilities as defined in section 135C.1, boarding homes or  
14 housing, rest homes, dormitories, college buildings, lodge  
15 halls, club rooms, public meeting places, places of amusement,  
16 apartment buildings, food establishments as defined in section  
17 ~~137A, 17-subsection-5, food-service-establishments-as-defined~~  
18 ~~in-section-137B-2, subsection-6~~ 137F.1, and all other  
19 buildings or structures in which persons congregate from time  
20 to time, whether publicly or privately owned. Violation of a  
21 rule adopted by the fire marshal is a simple misdemeanor.  
22 However, upon proof that the fire marshal gave written notice  
23 to the defendant of the violation, and proof that the  
24 violation constituted a clear and present danger to life, and  
25 proof that the defendant failed to eliminate the condition  
26 giving rise to the violation within thirty days after receipt  
27 of notice from the fire marshal, the penalty is that provided  
28 by law for a serious misdemeanor. Each day of the continuing  
29 violation of a rule after conviction of a violation of the  
30 rule is a separate offense. A conviction is subject to appeal  
31 as in other criminal cases.

32 Sec. 3. Section 137C.6, unnumbered paragraph 2, Code 1997,  
33 is amended to read as follows:

34 If a municipal corporation wants its local board of health  
35 to license, inspect, and otherwise enforce the Iowa hotel

1 sanitation code within its jurisdiction, the municipal  
2 corporation may enter into an agreement to do so with the  
3 director. The director may enter into the agreement if the  
4 director finds that the local board of health has adequate  
5 resources to perform the required functions. A municipal  
6 corporation may only enter into an agreement to enforce the  
7 Iowa hotel sanitation code if it also agrees to enforce the  
8 Iowa food ~~service-sanitation~~ code pursuant to section ~~137B-6~~  
9 ~~and-the-food-and-beverage-vending-machine-laws-pursuant-to~~  
10 ~~section-137E-3~~ 137F.3.

11 Sec. 4. Section 137C.35, unnumbered paragraph 1, Code  
12 1997, is amended to read as follows:

13 This chapter does not apply to bed and breakfast homes as  
14 defined in section ~~137B-2~~ 137F.1. However, a bed and  
15 breakfast home shall have a smoke detector in proper working  
16 order in each sleeping room and a fire extinguisher in proper  
17 working order on each floor. A bed and breakfast home which  
18 does not receive its drinking water from a public water  
19 supply, shall have its drinking water tested at least annually  
20 by the state hygienic laboratory or the local board of health.  
21 A violation of this section is punishable as provided in  
22 section 137C.28.

23 Sec. 5. NEW SECTION. 137F.1 DEFINITIONS.

24 For the purpose of this chapter:

25 1. "Bed and breakfast home" means a private residence  
26 which provides lodging and meals for guests, in which the host  
27 or hostess resides and in which no more than two guest  
28 families are lodged at the same time and which, while it may  
29 advertise and accept reservations, does not hold itself out to  
30 the public to be a restaurant, hotel, or motel, does not  
31 require reservations, and serves food only to overnight  
32 guests.

33 2. "Commissary" means a food establishment used for  
34 preparing, fabricating, packaging, and storage of food or food  
35 products for distribution and sale through the food

1 establishment's own food establishment outlets.

2 3. "Department" means the department of inspections and  
3 appeals.

4 4. "Director" means the director of the department of  
5 inspections and appeals.

6 5. "Farmers market" means a marketplace which seasonally  
7 operates principally as a common market for fresh fruits and  
8 vegetables on a retail basis for off-the-premises consumption.

9 6. "Food" means a raw, cooked, or processed edible  
10 substance, ice, a beverage, an ingredient used or intended for  
11 use or sale in whole or in part for human consumption, or  
12 chewing gum.

13 7. "Food code" means the 1997 edition of the United States  
14 food and drug administration food code.

15 8. "Food establishment" means an operation that stores,  
16 prepares, packages, serves, vends, or otherwise provides food  
17 for human consumption and includes a food service operation in  
18 a school, summer camp, residential service substance abuse  
19 treatment facility, halfway house substance abuse treatment  
20 facility, correctional facility operated by the department of  
21 corrections, the state training school, or the Iowa juvenile  
22 home. "Food establishment" does not include the following:

23 a. A food processing plant.

24 b. An establishment that offers only prepackaged foods  
25 that are nonpotentially hazardous.

26 c. A produce stand or facility which sells only whole,  
27 uncut fresh fruits and vegetables.

28 d. Premises which are licensed as a home food  
29 establishment pursuant to chapter 137D.

30 e. Premises which operate as a farmers market.

31 f. Premises of a residence in which food that is  
32 nonpotentially hazardous is sold for consumption off-the-  
33 premises, if the food is labeled to identify the name and  
34 address of the person preparing the food and the common name  
35 of the food. As used in this subsection, food that is

1 nonpotentially hazardous means only the following:

2 (1) Baked goods, except the following: soft pies, bakery  
3 products with custard or cream fillings, or any other  
4 potentially hazardous goods.

5 (2) Wholesome, fresh eggs that are kept at a temperature  
6 of forty-one degrees Fahrenheit or five degrees Celsius or  
7 less.

8 (3) Honey which is labeled with additional information as  
9 provided by departmental rule.

10 g. A kitchen in a private home, if only food that is  
11 nonpotentially hazardous is prepared for sale or service at a  
12 function such as a religious or charitable organization's bake  
13 sale and if the consumer is informed by a clearly visible  
14 placard at the sales or service location that the food is  
15 prepared in a kitchen that is not subject to regulation and  
16 inspection by the regulatory authority or in an area where  
17 food that is prepared as specified above is sold or offered  
18 for human consumption.

19 h. A kitchen in a private home or a bed and breakfast  
20 home.

21 i. A private home that receives catered or home-delivered  
22 food.

23 j. Child day care facilities and other food establishment  
24 facilities located in hospitals or health care facilities  
25 which are subject to inspection by other state agencies or  
26 divisions of the department.

27 k. Supply vehicles, vending machine locations, or  
28 boardinghouses for permanent guests.

29 l. Establishments exclusively engaged in the processing of  
30 meat and poultry which are licensed pursuant to section  
31 189A.3.

32 m. Premises covered by a current class "A" beer permit as  
33 provided in chapter 123.

34 9. "Food processing plant" means a commercial operation  
35 that manufactures, packages, labels, or stores food for human

1 consumption and does not provide food directly to a consumer.  
2 "Food processing plant" does not include premises covered by a  
3 class "A" beer permit as provided in chapter 123.

4 10. "Mobile food unit" means a food establishment that is  
5 readily movable, which either operates up to three consecutive  
6 days at one location or returns to a home base of operation at  
7 the end of each day.

8 11. "Municipal corporation" means a political subdivision  
9 of this state.

10 12. "Perishable food" means potentially hazardous food.

11 13. "Potentially hazardous food" means a food that is  
12 natural or synthetic and is in a form capable of supporting  
13 the rapid and progressive growth of infectious or toxigenic  
14 microorganisms, or the growth and toxin production of  
15 clostridium botulinum. "Potentially hazardous food" includes  
16 an animal food that is raw or heat-treated, a food of plant  
17 origin that is heat-treated or consists of raw seed sprouts,  
18 cut melons, and garlic and oil mixtures. "Potentially  
19 hazardous food" does not include the following:

- 20 a. An air-cooled hard-boiled egg with shell intact.  
21 b. A food with a water activity value of 0.85 or less.  
22 c. A food with a hydrogen ion concentration (pH) level of  
23 4.6 or below when measured at twenty-four degrees Centigrade  
24 or seventy-five degrees Fahrenheit.  
25 d. A food, in an unopened hermetically sealed container,  
26 that is commercially processed to achieve and maintain  
27 commercial sterility under conditions of nonrefrigerated  
28 storage and distribution.

29 14. "Pushcart" means a non-self-propelled vehicle food  
30 establishment limited to serving nonpotentially hazardous  
31 foods or commissary-wrapped foods maintained at proper  
32 temperatures, or limited to the preparation and serving of  
33 frankfurters.

34 15. "Regulatory authority" means the department or a  
35 municipal corporation that has entered into an agreement with

1 the director pursuant to section 137F.3 for authority to  
2 enforce this chapter in its jurisdiction.

3 16. "Temporary food establishment" means a food  
4 establishment that operates for a period of no more than  
5 fourteen consecutive days in conjunction with a single event  
6 or celebration.

7 17. "Vending machine" means a food establishment which is  
8 a self-service device that, upon insertion of a coin, paper  
9 currency, token, card, or key, dispenses unit servings of food  
10 in bulk or in packages without the necessity of replenishing  
11 the device between each vending operation.

12 18. "Vending machine location" means the physical site  
13 where a vending machine is installed and operated, including  
14 the storage and servicing areas on the premises that are used  
15 in conjunction with the vending machine.

16 Sec. 6. NEW SECTION. 137F.2 ADOPTION BY RULE.

17 The director shall adopt the food code with the following  
18 exceptions:

19 1. A nonprofit organization which engages in the serving  
20 of food not more than one day per calendar week and not on two  
21 or more consecutive days is exempt from this chapter.

22 2. A food processing plant shall comply with the "Current  
23 Good Manufacturing Practices in Manufacturing, Processing,  
24 Packing, or Holding Human Food" as found in the latest version  
25 of 21 C.F.R. pt. 110, and with rules adopted by the department  
26 to enforce the practices.

27 3. A vending machine commissary shall be inspected at  
28 least once each calendar year.

29 4. A vending machine which only dispenses prepackaged food  
30 that is not potentially hazardous is exempt from inspection  
31 and licensing, except upon receipt of a verified complaint by  
32 the regulatory authority.

33 5. 1-201.10(B)(31) and 3-403.10 shall be deleted.

34 6. 3-201-11(B) shall be amended to allow food prepared by  
35 a home food establishment licensed under chapter 137D or by an

1 operation specified under section 137F.1, subsection 8,  
2 paragraph "f", to be used or offered for sale.

3 7. 3-501.16 shall be amended by adding the following:

4 "Shell eggs shall be received and held at an ambient  
5 temperature not to exceed forty-five degrees Fahrenheit or  
6 seven degrees Celsius."

7 8. 3-502.12(A) shall be amended by adding the following:

8 "Packaging of raw meat and raw poultry using an oxygen  
9 packaging method, with a thirty-day 'sell by' date from the  
10 date it was packaged, shall be exempt from having an HACCP  
11 Plan that contains the information required in this section  
12 and section 8-201.14."

13 9. 3-603.11 shall be amended by adding the following:

14 "The following standardized language shall be used on the  
15 required consumer advisory: 'Thoroughly cooking foods of  
16 animal origin such as beef, eggs, fish, lamb, pork, poultry,  
17 or shellfish reduces the risk of food-borne illness.  
18 Individuals with certain health conditions may be at higher  
19 risk if these foods are consumed raw or undercooked. Consult  
20 your physician or public health official for further  
21 information.'"

22 Sec. 7. NEW SECTION. 137F.3 AUTHORITY TO ENFORCE.

23 The director shall regulate, license, and inspect food  
24 establishments and food processing plants and enforce this  
25 chapter pursuant to rules adopted by the department in  
26 accordance with chapter 17A. Municipal corporations shall not  
27 regulate, license, inspect, or collect license fees from food  
28 establishments and food processing plants, except as provided  
29 in this section.

30 A municipal corporation may enter into an agreement with  
31 the director to provide that the municipal corporation shall  
32 license, inspect, and otherwise enforce this chapter within  
33 its jurisdiction. The director may enter into the agreement  
34 if the director finds that the municipal corporation has  
35 adequate resources to perform the required functions.



1 However, the department shall license and inspect all food  
2 processing plants which manufacture, package, or label food  
3 products. A municipal corporation may license and inspect, as  
4 authorized by this section, food processing plants whose  
5 operations are limited to the storage of food products.

6 If the director enters into an agreement with a municipal  
7 corporation as provided by this section, the director shall  
8 provide that the inspection practices of a municipal  
9 corporation are spot-checked on a regular basis.

10 A municipal corporation that is responsible for enforcing  
11 this chapter within its jurisdiction pursuant to an agreement  
12 shall make an annual report to the director providing the  
13 following information:

14 1. The total number of licenses granted or renewed by the  
15 municipal corporation under this chapter during the year.

16 2. The number of licenses granted or renewed by the  
17 municipal corporation under this chapter during the year in  
18 each of the following categories:

19 a. Food establishments.

20 b. Food processing plants.

21 c. Mobile food units and pushcarts.

22 d. Temporary food establishments.

23 e. Vending machines.

24 3. The amount of money collected in license fees during  
25 the year.

26 4. Other information the director requests.

27 The director shall monitor municipal corporations which  
28 have entered into an agreement pursuant to this section to  
29 determine if they are enforcing this chapter within their  
30 respective jurisdictions. If the director determines that  
31 this chapter is not enforced by a municipal corporation, the  
32 director may rescind the agreement after reasonable notice and  
33 an opportunity for a hearing. If the agreement is rescinded,  
34 the director shall assume responsibility for enforcement in  
35 the jurisdiction involved.

1     Sec. 8. NEW SECTION. 137F.4 LICENSE REQUIRED.

2     A person shall not open or operate a food establishment or  
3 food processing plant until the appropriate license has been  
4 obtained from the regulatory authority. Sale of products at  
5 wholesale to outlets not owned by a commissary owner requires  
6 a food processing plant license. A license shall expire one  
7 year from the date of issue. A license is renewable. All  
8 licenses issued under this chapter that are not renewed by the  
9 licensee on or before the expiration date shall be subject to  
10 a penalty of ten percent per month of the license fee if the  
11 license is renewed at a later date.

12    Sec. 9. NEW SECTION. 137F.5 APPLICATION FOR LICENSE.

13    An application form prescribed by the department for a  
14 license under this chapter shall be obtained from the  
15 department or from a municipal corporation which is a  
16 regulatory authority. A completed application shall be  
17 submitted to the appropriate regulatory authority.

18    The dominant form of business shall determine the type of  
19 license for establishments which engage in operations covered  
20 under both the definition of a food establishment and of a  
21 food processing plant.

22    The regulatory authority where the unit is domiciled shall  
23 issue a license for a mobile food unit.

24    An application for renewal of a license shall be made at  
25 least thirty days before the expiration of the existing  
26 license.

27    Sec. 10. NEW SECTION. 137F.6 LICENSE FEES.

28    The regulatory authority shall collect the following annual  
29 license fees:

30    1. For a mobile food unit or pushcart, seventy-five  
31 dollars.

32    2. For a temporary food establishment per fixed location,  
33 twenty-five dollars.

34    3. For a vending machine, twenty dollars for the first  
35 machine and five dollars for each additional machine.

1 4. For a food establishment or a section of a food  
2 establishment, which prepares or serves food for individual  
3 portion service, the annual license fee shall correspond to  
4 the annual gross sales of the food establishment, as follows:

5 a. Annual gross sales of under fifty thousand dollars,  
6 sixty dollars.

7 b. Annual gross sales of at least fifty thousand dollars  
8 but less than one hundred thousand dollars, one hundred  
9 dollars.

10 c. Annual gross sales of at least one hundred thousand  
11 dollars but less than two hundred fifty thousand dollars, two  
12 hundred dollars.

13 d. Annual gross sales of two hundred fifty thousand  
14 dollars or more, two hundred twenty-five dollars.

15 5. For a food establishment or section of a food  
16 establishment, which sells food or food products to consumer  
17 customers intended for preparation or consumption off-the-  
18 premises, the annual license fee shall correspond to the  
19 annual gross sales of the food establishment, as follows:

20 a. Annual gross sales of under ten thousand dollars,  
21 thirty dollars.

22 b. Annual gross sales of at least ten thousand dollars but  
23 less than two hundred fifty thousand dollars, seventy-five  
24 dollars.

25 c. Annual gross sales of at least two hundred fifty  
26 thousand dollars but less than five hundred thousand dollars,  
27 one hundred fifteen dollars.

28 d. Annual gross sales of at least five hundred thousand  
29 dollars but less than seven hundred fifty thousand dollars,  
30 one hundred fifty dollars.

31 e. Annual gross sales of seven hundred fifty thousand  
32 dollars or more, two hundred twenty-five dollars.

33 6. For a food processing plant, the annual license fee  
34 shall correspond to the annual gross sales of the food  
35 processing plant, as follows:

1 a. Annual gross sales of under fifty thousand dollars,  
2 fifty dollars.

3 b. Annual gross sales of at least fifty thousand dollars  
4 but less than two hundred fifty thousand dollars, one hundred  
5 dollars.

6 c. Annual gross sales of at least two hundred fifty  
7 thousand dollars but less than five hundred thousand dollars,  
8 one hundred fifty dollars.

9 d. Annual gross sales of five hundred thousand dollars or  
10 more, two hundred fifty dollars.

11 A food establishment covered by subsections 4 and 5 shall  
12 be assessed license fees under both subsections.

13 Fees collected by the department shall be deposited in the  
14 general fund of the state. Fees collected by a municipal  
15 corporation shall be retained by the municipal corporation for  
16 regulation of food establishments and food processing plants  
17 licensed under this chapter.

18 Each vending machine licensed under this chapter shall bear  
19 a readily visible identification tag or decal provided by the  
20 licensee, containing the licensee's business address and phone  
21 number, and a company license number assigned by the  
22 regulatory authority.

23 Sec. 11. NEW SECTION. 137F.7 SUSPENSION OR REVOCATION OF  
24 LICENSES.

25 The regulatory authority may suspend or revoke a license  
26 issued to a person under this chapter pursuant to rules  
27 adopted by the department if any of the following occurs:

28 1. The person's food establishment or food processing  
29 plant does not conform to a provision of this chapter or a  
30 rule adopted pursuant to this chapter.

31 2. The person conducts an activity constituting a criminal  
32 offense in the food establishment or food processing plant and  
33 is convicted of a serious misdemeanor or a more serious  
34 offense as a result.

35 A licensee may appeal a suspension or revocation in

1 accordance with rules adopted by the department.

2 Sec. 12. NEW SECTION. 137F.8 FARMERS MARKETS.

3 A vendor who offers a product for sale at a farmers market  
4 shall have the sole responsibility to obtain and maintain any  
5 license required to sell or distribute the product.

6 Sec. 13. NEW SECTION. 137F.9 OPERATION WITHOUT  
7 INSPECTION PROHIBITED.

8 A person shall not open or operate a food establishment or  
9 food processing plant until an inspection has been made and a  
10 license has been issued by the regulatory authority.

11 Inspections shall be conducted according to standards adopted  
12 by rule of the department pursuant to chapter 17A.

13 A person who opens or operates a food establishment or food  
14 processing plant without a license is subject to a penalty of  
15 up to twice the amount of the annual license fee.

16 Sec. 14. NEW SECTION. 137F.10 REGULAR INSPECTIONS.

17 The appropriate regulatory authority shall provide for the  
18 inspection of each food establishment and food processing  
19 plant in this state in accordance with this chapter and with  
20 rules adopted pursuant to this chapter in accordance with  
21 chapter 17A. A regulatory authority may enter a food  
22 establishment or food processing plant at any reasonable hour  
23 to conduct an inspection. The manager or person in charge of  
24 the food establishment or food processing plant shall afford  
25 free access to every part of the premises and render all aid  
26 and assistance necessary to enable the regulatory authority to  
27 make a thorough and complete inspection.

28 Sec. 15. NEW SECTION. 137F.11 INSPECTION UPON COMPLAINT.

29 Upon receipt of a complaint by a customer of a food  
30 establishment or food processing plant stating facts  
31 indicating the premises are in an unsanitary condition, the  
32 regulatory authority may conduct an inspection.

33 Sec. 16. NEW SECTION. 137F.12 PLUMBING.

34 A food establishment or food processing plant shall have an  
35 adequately designed plumbing system conforming to at least the

1 minimum requirements of the state plumbing code, or local  
2 plumbing code, whichever is more stringent. The plumbing  
3 system shall have a connection to a municipal water and sewer  
4 system or to a benefited water district or sanitary district  
5 if such facilities are available.

6 Sec. 17. NEW SECTION. 137F.13 WATER AND WASTE TREATMENT.

7 If a food establishment or food processing plant is served  
8 by privately owned water or waste treatment facilities, those  
9 facilities shall meet the technical requirements of the local  
10 board of health and the department of natural resources.

11 Sec. 18. NEW SECTION. 137F.14 TOILETS AND LAVATORIES.

12 A food establishment or food processing plant shall provide  
13 toilet and lavatory facilities in accordance with rules  
14 adopted by the department pursuant to this chapter in  
15 accordance with chapter 17A.

16 Sec. 19. NEW SECTION. 137F.15 FIRE SAFETY.

17 A violation of a fire safety rule adopted pursuant to  
18 section 100.35 and applicable to food establishments or food  
19 processing plants which occurs on the premises of a food  
20 establishment or food processing plant is a violation of this  
21 chapter.

22 Sec. 20. NEW SECTION. 137F.16 CONFLICTS WITH STATE  
23 BUILDING CODE.

24 Provisions of this chapter in conflict with the state  
25 building code shall not apply where the state building code  
26 has been adopted or when the state building code applies  
27 throughout the state.

28 Sec. 21. NEW SECTION. 137F.17 PENALTY.

29 A person who violates this chapter or rules adopted  
30 pursuant to this chapter commits a simple misdemeanor.

31 Sec. 22. NEW SECTION. 137F.18 INJUNCTION.

32 A person opening or operating a food establishment or food  
33 processing plant in violation of this chapter may be enjoined  
34 from further operation of the establishment or plant. If an  
35 imminent health hazard exists, the establishment or plant must

1 cease operation. Operation shall not be resumed until  
2 authorized by the regulatory authority.

3 Sec. 23. NEW SECTION. 137F.19 DUTY OF COUNTY OR CITY  
4 ATTORNEY.

5 The county attorney in each county or city attorney in each  
6 city shall assist in the enforcement of this chapter.

7 Sec. 24. Section 172A.6, unnumbered paragraph 1, Code  
8 1997, is amended to read as follows:

9 The license and financial responsibility provisions of this  
10 chapter shall not apply to any person who is licensed ~~by the~~  
11 ~~secretary~~ as provided in chapter ~~137A~~ 137F, 171, or 172 and  
12 who purchases livestock for slaughter valued at less than an  
13 average daily value of two thousand five hundred dollars  
14 during the preceding twelve months or such part thereof as the  
15 person was purchasing livestock. Said licensees are made  
16 subject to this chapter as to the regulatory and penal  
17 provisions hereof. All other provisions of this chapter shall  
18 apply to said dealers or brokers.

19 Sec. 25. Section 189A.3, unnumbered paragraph 1, Code  
20 1997, is amended to read as follows:

21 No person shall operate an establishment other than a  
22 ~~grocery-store-or~~ food ~~service~~ establishment as defined in  
23 section ~~137B-2~~ 137F.1 without first obtaining a license from  
24 the department. The license fee for each establishment per  
25 year or any part of a year shall be:

26 Sec. 26. Section 331.382, subsection 5, Code 1997, is  
27 amended to read as follows:

28 5. The board shall not regulate, license, inspect, or  
29 collect license fees from food ~~service~~ establishments or food  
30 and beverage vending machines except as provided in chapter  
31 ~~137B~~ 137F or from hotels except as provided in chapter 137C ~~or~~  
32 ~~for-food-and-beverage-vending-machines-except-as-provided-in~~  
33 ~~section-137E-3.~~

34 Sec. 27. Section 331.756, subsection 32, Code Supplement  
35 1997, is amended to read as follows:

1 32. Assist the department of inspections and appeals in  
2 the enforcement of the ~~food-establishment-laws~~, the Iowa food  
3 ~~service-sanitation~~ code, and the Iowa hotel sanitation code as  
4 provided in sections ~~137A.26, 137B.21,~~ 137F.19 and 137C.30.

5 Sec. 28. Chapters 137A, 137B, and 137E, Code 1997, are  
6 repealed.

7 Sec. 29. EFFECTIVE DATE AND TRANSITION PROVISIONS.

8 1. This Act takes effect January 1, 1999.

9 2. A license issued pursuant to chapter 137A, 137B, or  
10 137E before the effective date of this Act shall remain valid  
11 and be deemed the same as a license issued pursuant to chapter  
12 137F for the remaining term of the license.

13 3. An establishment with licenses under both chapters 137A  
14 and 137B on the effective date of this Act shall not be issued  
15 a license under chapter 137F until both licenses have expired.

16 EXPLANATION

17 This bill repeals Code chapters 137A, 137B, and 137E  
18 effective January 1, 1999. The new chapter which replaces  
19 these three chapters reflects the adoption on the federal  
20 level of the 1997 model food code, and replaces the definition  
21 of "bed and breakfast home" in the food code with the current  
22 definition contained in Code section 137B.2. The separate  
23 chapters governing food establishments, the food service  
24 sanitation code, and food and beverage vending machines are  
25 combined into one chapter. The bill deletes provisions that  
26 allow the department to amend the food code through the  
27 administrative rule process.

28 The bill provides for a revised license fee structure for  
29 fees charged for licensing vending machines and food service  
30 establishments, as well as an administrative fee of up to 10  
31 percent of the total license fees collected in a fiscal year  
32 which shall be charged to municipalities that regulate food  
33 establishments. The bill amends other Code sections  
34 containing internal references to the repealed chapters.

35 The bill also establishes a transition between licenses



1 issued under the repealed chapters and licenses issued under  
2 chapter 137F.

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HOUSE FILE 2107  
FISCAL NOTE

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A fiscal note for House File 2107 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 2107 provides for a revised license fee structure for fees charged for licensing food service establishments and vending machines. The Bill repeals Code of Iowa Chapters 137A, 137B, and 137E and replaces them with Chapter 137F which reflects the adoption on the federal level of the 1997 model food code. The Bill deletes provisions which allow the Department of Inspections and Appeals to amend the food code through the administrative rule process. The Bill also establishes a transition between licenses issued under the repealed chapters and licenses issued under Chapter 137F.

ASSUMPTIONS

1. Expenses, which are mainly salaries for State inspection personnel, will increase 5.0% per year.
2. The number of inspections performed by the Department of Inspections and Appeals and local health departments will remain constant. Currently, the Department conducts approximately 10.0% of all inspections of the food establishments in the State. The other 90.0% of inspections are conducted by city and county health departments through contractual agreements with the Director of the Department of Inspections and Appeals.
3. License fee revenue received by the Department of Inspections and Appeals will continue to be deposited in the General Fund and the General Assembly will continue to appropriate the funds to cover the regulation expenditures of the Department.
4. The full amount of the license fee increase will not occur until FY 2000 as the effective date of the Bill is January 1, 1999.
5. The costs for cities and counties to regulate food establishments will be based on the State costs of regulation.
6. Federal funds will remain static.

FISCAL IMPACT

Under current law, the annual license fee for food service establishments and vending machines generates \$156,000 in revenue to the State General Fund. The General Assembly appropriates funds to the Department of Inspections and Appeals to cover the cost of regulating food establishments.

House File 2107 will generate additional license fee revenue to the State General Fund of \$57,000 for FY 1999 and \$115,000 for FY 2000 and each subsequent year. The expenditures for State regulation of food establishments are estimated to be \$554,000 in FY 1999 and \$581,000 in FY 2000. The following table shows the effect of the Bill on the State compared to current law.

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	(numbers in thousands)					
	Fiscal Year 1999			Fiscal Year 2000		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
<b>REVENUE</b>						
General Fund \$	173	\$ 230	\$ 57	\$ 173	\$ 288	\$ 115
Federal Funds	24	24	0	24	24	0
Other	0	0	0	0	0	0
Total	\$ 197	\$ 254	\$ 57	\$ 197	\$ 312	\$ 115
<b>EXPENDITURES</b>						
Salaries (FTE's)	\$ 455 (10.5)	\$ 455 (10.5)	\$ 0 (00.0)	\$ 478 (10.5)	\$ 478 (10.5)	\$ 0 (00.0)
Other	99	124	25	104	104	0
Total	\$ 554	\$ 579	\$ 25	\$ 581	\$ 581	\$ 0
NET EFFECT	\$ (356)	\$ (324)	\$ 32	\$ (384)	\$ (269)	\$ 115

House File 2107 will have a significant fiscal impact on cities and counties as local health departments conduct an estimated 23,000 annual inspections of food establishments. For cities and counties, the Bill will generate additional license fee revenues of \$333,000 for FY 1999 and \$666,000 for FY 2000. For some cities and counties, the current license fee revenue does not completely cover the cost of regulating food establishments. However, the actual fiscal impact of the Bill on municipal corporations will depend on the individual city or county. The following table shows the overall effect of the Bill on cities and counties compared to current law.

	(numbers in thousands)					
	Fiscal Year 1999			Fiscal Year 2000		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
<b>REVENUE</b>						
Fees	\$ 1,527	\$ 1,860	\$ 333	\$ 1,527	\$ 2,193	\$ 666
<b>EXPENDITURES</b>						
Salaries	\$ 2,558	\$ 2,683	\$ 125	\$ 2,558	\$ 2,814	\$ 256
Other	562	589	27	562	618	56
Total	\$ 3,120	\$ 3,272	\$ 152	\$ 3,120	\$ 3,432	\$ 312
NET EFFECT	\$ (1,593)	\$ (1,412)	\$ 181	\$ (1,593)	\$ (1,239)	\$ 354

**SOURCES**

Department of Inspections and Appeals  
Iowa State Association of Counties

(LSB 3292hv, PQP)

FILED FEBRUARY 10, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR