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WAYS & MEANS CALENDAR

HOUSE FILE

2166

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2107)

Passed House, ^(P.251) Date 2-16-98 Passed Senate, ^(P.1121) Date 4-7-98
Vote: Ayes 94 Nays 5 Vote: Ayes 38 Nays 7
Approved May 5, 1998

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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HF 2166

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.1, 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. The creation and placing of a placard
19 at the sales or service location pursuant to this paragraph
20 shall be the responsibility of the religious, charitable, or
21 other sponsoring organization.

22 h. A kitchen in a private home or a bed and breakfast
23 home.

24 i. A private home that receives catered or home-delivered
25 food.

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

30 k. Supply vehicles, vending machine locations, or
31 boardinghouses for permanent guests.

32 l. Establishments exclusively engaged in the processing of
33 meat and poultry which are licensed pursuant to section
34 189A.3.

35 m. Premises covered by a current class "A" beer permit as

1 provided in chapter 123.

2 9. "Food processing plant" means a commercial operation
3 that manufactures, packages, labels, or stores food for human
4 consumption and does not provide food directly to a consumer.
5 "Food processing plant" does not include premises covered by a
6 class "A" beer permit as provided in chapter 123.

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

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

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

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

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

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

1 frankfurters.

2 15. "Regulatory authority" means the department or a
3 municipal corporation that has entered into an agreement with
4 the director pursuant to section 137F.3 for authority to
5 enforce this chapter in its jurisdiction.

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

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

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

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

20 The director shall adopt the food code with the following
21 exceptions:

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

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

30 3. A vending machine commissary shall be inspected at
31 least once each calendar year.

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

- 1 5. 1-201.10(B)(31) and 3-403.10 shall be deleted.
- 2 6. 3-201-11(B) shall be amended to allow food prepared by
3 a home food establishment licensed under chapter 137D or by an
4 operation specified under section 137F.1, subsection 8,
5 paragraph "f", to be used or offered for sale.
- 6 7. 3-501.16 shall be amended by adding the following:
7 "Shell eggs shall be received and held at an ambient
8 temperature not to exceed forty-five degrees Fahrenheit or
9 seven degrees Celsius."
- 10 8. 3-502.12(A) shall be amended by adding the following:
11 "Packaging of raw meat and raw poultry using an oxygen
12 packaging method, with a thirty-day 'sell by' date from the
13 date it was packaged, shall be exempt from having an HACCP
14 Plan that contains the information required in this section
15 and section 8-201.14."
- 16 9. 3-603.11 shall be amended by adding the following:
17 "The following standardized language shall be used on the
18 required consumer advisory: 'Thoroughly cooking foods of
19 animal origin such as beef, eggs, fish, lamb, pork, poultry,
20 or shellfish reduces the risk of food-borne illness.
21 Individuals with certain health conditions may be at higher
22 risk if these foods are consumed raw or undercooked. Consult
23 your physician or public health official for further
24 information.'"
- 25 Sec. 7. NEW SECTION. 137F.3 AUTHORITY TO ENFORCE.
- 26 The director shall regulate, license, and inspect food
27 establishments and food processing plants and enforce this
28 chapter pursuant to rules adopted by the department in
29 accordance with chapter 17A. Municipal corporations shall not
30 regulate, license, inspect, or collect license fees from food
31 establishments and food processing plants, except as provided
32 in this section.
- 33 A municipal corporation may enter into an agreement with
34 the director to provide that the municipal corporation shall
35 license, inspect, and otherwise enforce this chapter within

1 its jurisdiction. The director may enter into the agreement
2 if the director finds that the municipal corporation has
3 adequate resources to perform the required functions.
4 However, the department shall license and inspect all food
5 processing plants which manufacture, package, or label food
6 products. A municipal corporation may license and inspect, as
7 authorized by this section, food processing plants whose
8 operations are limited to the storage of food products.

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

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

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

19 2. The number of licenses granted or renewed by the
20 municipal corporation under this chapter during the year in
21 each of the following categories:

22 a. Food establishments.

23 b. Food processing plants.

24 c. Mobile food units and pushcarts.

25 d. Temporary food establishments.

26 e. Vending machines.

27 3. The amount of money collected in license fees during
28 the year.

29 4. Other information the director requests.

30 The director shall monitor municipal corporations which
31 have entered into an agreement pursuant to this section to
32 determine if they are enforcing this chapter within their
33 respective jurisdictions. If the director determines that
34 this chapter is not enforced by a municipal corporation, the
35 director may rescind the agreement after reasonable notice and

1 an opportunity for a hearing. If the agreement is rescinded,
2 the director shall assume responsibility for enforcement in
3 the jurisdiction involved.

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

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

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

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

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

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

27 An application for renewal of a license shall be made at
28 least thirty days before the expiration of the existing
29 license.

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

31 The regulatory authority shall collect the following annual
32 license fees:

33 1. For a mobile food unit or pushcart, seventy-five
34 dollars.

35 2. For a temporary food establishment per fixed location,

1 twenty-five dollars.

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

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

8 a. Annual gross sales of under fifty thousand dollars,
9 sixty dollars.

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

13 c. Annual gross sales of at least one hundred thousand
14 dollars but less than two hundred fifty thousand dollars, two
15 hundred dollars.

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

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

23 a. Annual gross sales of under ten thousand dollars,
24 thirty dollars.

25 b. Annual gross sales of at least ten thousand dollars but
26 less than two hundred fifty thousand dollars, seventy-five
27 dollars.

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

31 d. Annual gross sales of at least five hundred thousand
32 dollars but less than seven hundred fifty thousand dollars,
33 one hundred fifty dollars.

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

1 6. For a food processing plant, the annual license fee
2 shall correspond to the annual gross sales of the food
3 processing plant, as follows:

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

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

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

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

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

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

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

26 Sec. 11. NEW SECTION. 137F.7 SUSPENSION OR REVOCATION OF
27 LICENSES.

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

31 1. The person's food establishment or food processing
32 plant does not conform to a provision of this chapter or a
33 rule adopted pursuant to this chapter.

34 2. The person conducts an activity constituting a criminal
35 offense in the food establishment or food processing plant and

1 is convicted of a serious misdemeanor or a more serious
2 offense as a result.

3 A licensee may appeal a suspension or revocation in
4 accordance with rules adopted by the department.

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

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

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

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

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

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

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

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

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

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

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

2 A food establishment or food processing plant shall have an
3 adequately designed plumbing system conforming to at least the
4 minimum requirements of the state plumbing code, or local
5 plumbing code, whichever is more stringent. The plumbing
6 system shall have a connection to a municipal water and sewer
7 system or to a benefited water district or sanitary district
8 if such facilities are available.

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

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

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

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

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

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

25 Sec. 20. NEW SECTION. 137F.16 CONFLICTS WITH STATE
26 BUILDING CODE.

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

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

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

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

35 A person opening or operating a food establishment or food

1 processing plant in violation of this chapter may be enjoined
2 from further operation of the establishment or plant. If an
3 imminent health hazard exists, the establishment or plant must
4 cease operation. Operation shall not be resumed until
5 authorized by the regulatory authority.

6 Sec. 23. NEW SECTION. 137F.19 DUTY OF COUNTY OR CITY
7 ATTORNEY.

8 The county attorney in each county or city attorney in each
9 city shall assist in the enforcement of this chapter.

10 Sec. 24. Section 172A.6, unnumbered paragraph 1, Code
11 1997, is amended to read as follows:

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

22 Sec. 25. Section 189A.3, unnumbered paragraph 1, Code
23 1997, is amended to read as follows:

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

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

31 5. The board shall not regulate, license, inspect, or
32 collect license fees from food ~~service~~ establishments or food
33 and beverage vending machines except as provided in chapter
34 ~~137B~~ 137F or from hotels except as provided in chapter 137C or
35 ~~for-food-and-beverage-vending-machines-except-as-provided-in~~

1 ~~section-137E-3.~~

2 Sec. 27. Section 331.756, subsection 32, Code Supplement
3 1997, is amended to read as follows:

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

8 Sec. 28. Chapters 137A, 137B, and 137E, Code 1997, are
9 repealed.

10 Sec. 29. EFFECTIVE DATE AND TRANSITION PROVISIONS.

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

12 2. A license issued pursuant to chapter 137A, 137B, or
13 137E before the effective date of this Act shall remain valid
14 and be deemed the same as a license issued pursuant to chapter
15 137F for the remaining term of the license.

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

19 EXPLANATION

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

31 The bill provides for a revised license fee structure for
32 fees charged for licensing vending machines and food service
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 2166

H-8052

1 Amend the amendment, H-8045, to House File 2166 as
2 follows:

3 1. Page 1, by inserting after line 1 the
4 following:

5 "____". Page 7, by inserting after line 5 the
6 following:

7 "6A. 3-301.11(B) shall be amended by deleting the
8 section and replacing it with the following:

9 (1) Except when washing fruits and vegetables,
10 food employees should, to the extent practicable,
11 avoid contact with exposed, ready-to-eat food with
12 their bare hands. Where ready-to-eat food is
13 routinely handled by employees, employers should adopt
14 reasonable sanitary procedures to reduce the risk of
15 the transmission of pathogenic organisms.

16 (2) In seeking to minimize employees' physical
17 contact with ready-to-eat foods, no single method or
18 device is universally practical or necessarily the
19 most effective method to prevent the transmission of
20 pathogenic organisms in all situations. As such, each
21 public food service establishment shall review its
22 operations to identify procedures where ready-to-eat
23 food must be routinely handled by its employees and
24 adopt one or more of the following sanitary
25 alternatives, to be used either alone or in
26 combination, to prevent the transmission of pathogenic
27 organisms:

28 (a) The use of suitable food handling materials
29 including, but not limited to, deli tissues,
30 appropriate utensils, or dispensing equipment. Such
31 materials must be used in conjunction with thorough
32 hand washing practices in accord with paragraph (c).

33 (b) The use of single-use gloves, for the purpose
34 of preparing or handling ready-to-eat foods, shall be
35 discarded when damaged or soiled or when the process
36 of food preparation or handling is interrupted.
37 Single-use gloves must be used in conjunction with
38 thorough hand washing practices in accord with
39 paragraph (c).

40 (c) The use, pursuant to the manufacturer's
41 instructions, of anti-microbial soaps, with the
42 additional optional use of anti-bacterial protective
43 skin lotions or anti-microbial hand sanitizers,
44 rinses, or dips. All such soaps, lotions, sanitizers,
45 rinses, and dips must contain active topical anti-
46 microbial or anti-bacterial ingredients, registered by
47 the United States environmental protection agency,
48 cleared by the United States food and drug
49 administration, and approved by the United States
50 department of agriculture.

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1 (d) The use of such other practices, devices, or
2 products that are found by the division to achieve a
3 comparable level of protection to one or more of the
4 sanitary alternatives in paragraphs (a) through (c).

5 (3) Regardless of the sanitary alternatives in
6 use, each public food service establishment shall
7 establish:

8 (a) Systematic focused education and training of
9 all food service employees involved in the identified
10 procedures regarding the potential for transmission of
11 pathogenic organisms from contact with ready-to-eat
12 food. The importance of proper hand washing and
13 hygiene in preventing the transmission of illness, and
14 the effective use of the sanitary alternatives and
15 monitoring systems utilized by the public food service
16 establishment, shall be reinforced. The content and
17 duration of this training shall be determined by the
18 manager of the public food service establishment.

19 (b) A monitoring system to demonstrate the proper
20 and effective use of the sanitary alternatives
21 utilized by the public food service establishment."

22 _____. By renumbering as necessary."

By HEATON of Henry

H-8052 FILED FEBRUARY 16, 1998

NON-GERMANE 2/16/98 (P247)

HOUSE FILE 2166

H-8051

1 Amend the amendment, H-8047, to House File 2166 as
2 follows:

3 1. Page 1, by inserting after line 14 the
4 following:

5 "_____. Page 11, line 15, by inserting after the
6 word "fees" the following: "not to exceed seventy-
7 five percent of the total fees applicable"."

By DIX of Butler

H-8051 FILED FEBRUARY 16, 1998

LOST 2-16-98

(P.250)

HOUSE FILE 2166

H-8050

1 Amend the amendment, H-8048, to House File 2166 as
2 follows:

3 1. Page 2, by inserting after line 9 the
4 following:

5 "_____. Page 11, by inserting after line 25 the
6 following:

7 "Sec. _____. NEW SECTION. 137F.6A EXCESS COSTS --
8 APPROPRIATION.

9 There is appropriated annually from the general
10 fund of the state to the department of inspections and
11 appeals an amount sufficient to reimburse counties for
12 regulatory costs under this chapter in excess of
13 county regulatory cost levels for the fiscal year
14 beginning July 1, 1997, and ending June 30, 1998,
15 which are not covered by annual license fees. The
16 department shall establish by rule procedures for the
17 filing of reimbursement claims by counties pursuant to
18 this section."

19 _____. Title page, line 2, by inserting after the
20 word "penalties" the following: ", making an
21 appropriation,"."

By WEIGEL of Chickasaw

H-8050 FILED FEBRUARY 16, 1998

LOST 2-16-98

(P.248)

H-8048

1 Amend House File 2166 as follows:
 2 1. By striking page 9, line 33, through page 11,
 3 line 13, and inserting the following:
 4 "1. For a mobile food unit or pushcart, ten
 5 dollars.
 6 2. For temporary food establishment per fixed
 7 location, ten dollars.
 8 3. For a vending machine, two dollars per vending
 9 machine.
 10 4. For a food establishment or a section of a food
 11 establishment, which prepares or serves food for
 12 individual portion service, the annual license fee
 13 shall correspond to the annual gross sales of food in
 14 the food establishment, as follows:
 15 a. Annual gross sales of under fifty thousand
 16 dollars, forty dollars.
 17 b. Annual gross sales of at least fifty thousand
 18 dollars but less than one hundred thousand dollars,
 19 seventy dollars.
 20 c. Annual gross sales of at least one hundred
 21 thousand dollars but less than two hundred fifty
 22 thousand dollars, one hundred twenty-five dollars.
 23 d. Annual gross sales of two hundred fifty
 24 thousand dollars or more, one hundred fifty dollars.
 25 5. For a food establishment or section of a food
 26 establishment, which sells food or food products to
 27 consumer customers intended for preparation or
 28 consumption off-the-premises, the annual license fee
 29 shall correspond to the annual gross sales of food in
 30 the food establishment, as follows:
 31 a. Annual gross sales of under ten thousand
 32 dollars, twenty dollars.
 33 b. Annual gross sales of at least ten thousand
 34 dollars but less than two hundred fifty thousand
 35 dollars, fifty dollars.
 36 c. Annual gross sales of at least two hundred
 37 fifty thousand dollars but less than five hundred
 38 thousand dollars, seventy-five dollars.
 39 d. Annual gross sales of at least five hundred
 40 thousand dollars, but less than seven hundred fifty
 41 thousand dollars, one hundred dollars.
 42 e. Annual gross sales of seven hundred fifty
 43 thousand dollars or more, one hundred fifty dollars.
 44 6. For a food processing plant, the annual license
 45 fee shall correspond to the annual gross sales of food
 46 by the food processing plant, as follows:
 47 a. Annual gross sales of under ten thousand
 48 dollars, twenty dollars.
 49 b. Annual gross sales of at least ten thousand
 50 dollars but less than two hundred fifty thousand

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1 dollars, fifty dollars.
 2 c. Annual gross sales of at least two hundred
 3 fifty thousand dollars but less than five hundred
 4 thousand dollars, seventy-five dollars.
 5 d. Annual gross sales of at least five hundred
 6 thousand dollars but less than seven hundred fifty
 7 thousand dollars, one hundred dollars.
 8 e. Annual gross sales of seven hundred fifty
 9 thousand dollars or more, one hundred fifty dollars."

By WEIGEL of Chickasaw

H-8048 FILED FEBRUARY 12 1992

lost 2/16/98 (p. 250)

HOUSE FILE 2166

H-8046

1 Amend the amendment, H-8032, to House File 2166 as
2 follows:

3 1. Page 1, by striking line 10 and inserting the
4 following: "establishment and if the food is labeled
5 to identify the name and address of the person
6 preparing the food and the common name of the food,
7 and to state that the food is prepared in a kitchen
8 that is not subject to state inspection, regulation,
9 or licensure."

By BLODGETT of Cerro Gordo

H-8046 FILED FEBRUARY 12, 1998

Adopted 2/16/98 (p. 244)

HOUSE FILE 2166

H-8047

1 Amend House File 2166 as follows:

2 1. Page 10, line 9, by striking the word "sixty"
3 and inserting the following: "forty".
4 2. Page 10, line 11, by striking the words
5 "dollars, one hundred" and inserting the following:
6 "dollars, seventy".
7 3. Page 10, line 24, by striking the word
8 "thirty" and inserting the following: "twenty".
9 4. Page 10, line 26, by striking the words
10 "seventy-five" and inserting the following: "fifty".
11 5. Page 11, line 5, by striking the word "fifty"
12 and inserting the following: "twenty".
13 6. Page 11, line 7, by striking the words "one
14 hundred" and inserting the following: "fifty".

By WEIGEL of Chickasaw

H-8047 FILED FEBRUARY 12, 1998

Withdrawn 2/16/98 (p. 250)

HOUSE FILE 2166

H-8045

1 Amend House File 2166 as follows:

2 1. Page 7, by inserting after line 24 the
3 following:

4 "10. A carbonating device in a food establishment
5 shall have a dual check valve which shall be installed
6 so that it is upstream from the carbonating device and
7 downstream from any copper in the water supply line."

By BLODGETT of Cerro Gordo

H-8045 FILED FEBRUARY 12, 1998

Adopted 2/16/98 (p. 247)

HOUSE FILE 2166

H-8030

- 1 Amend House File 2166 as follows:
- 2 1. Page 2, line 27, by striking the word "two"
- 3 and inserting the following: "four".

By RICHARDSON of Warren

H-8030 FILED FEBRUARY 11, 1998

adopted 2/16/98 (P.245)

HOUSE FILE 2166

H-8032

- 1 Amend House File 2166 as follows:
- 2 1. Page 2, by inserting after line 22 the
- 3 following:
- 4 "Sec. ____ . NEW SECTION. 137D.9 EXEMPTION.
- 5 This chapter shall not apply to a home food
- 6 establishment having gross annual sales of prepared
- 7 food of one thousand dollars or less, if the person
- 8 who prepares the food sells or offers to sell the food
- 9 on or off the premises of the home food
- 10 establishment."
- 11 2. Page 3, line 28, by striking the words
- 12 "licensed as".
- 13 3. By renumbering as necessary.

By SCHRADER of Marion

H-8032 FILED FEBRUARY 11, 1998

adopted 2/16/98 (P.244)

S. 3/18/98 Amend / Do Pass
w/ S-5281

HOUSE FILE 2166
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2107)

(As Amended and Passed by the House, February 16, 1998)

Passed House, Date	<u>(P. 1639)</u> <u>4-15-98</u>	Passed Senate, Date	<u>(P. 1121)</u> <u>4-7-98</u>
Vote: Ayes	<u>98</u>	Nays	<u>2</u>
		Vote: Ayes	<u>38</u>
		Nays	<u>7</u>
Approved		<u>May 5, 1988</u>	

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:

- 5
- 6
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New Language _____

Deleted Language *

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-1, 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. 137D.9 EXEMPTION.

24 This chapter shall not apply to a home food establishment
25 having gross annual sales of prepared food of one thousand
26 dollars or less, if the person who prepares the food sells or
27 offers to sell the food on or off the premises of the home
28 food establishment and if the food is labeled to identify the
29 name and address of the person preparing the food and the
30 common name of the food, and to state that the food is
31 prepared in a kitchen that is not subject to state inspection,
32 regulation, or licensure.

33 Sec. 6. NEW SECTION. 137F.1 DEFINITIONS.

34 For the purpose of this chapter:

35 1. "Bed and breakfast home" means a private residence

1 which provides lodging and meals for guests, in which the host
2 or hostess resides and in which no more than four guest
3 families are lodged at the same time and which, while it may
4 advertise and accept reservations, does not hold itself out to
5 the public to be a restaurant, hotel, or motel, does not
6 require reservations, and serves food only to overnight
7 guests.

8 2. "Commissary" means a food establishment used for
9 preparing, fabricating, packaging, and storage of food or food
10 products for distribution and sale through the food
11 establishment's own food establishment outlets.

12 3. "Department" means the department of inspections and
13 appeals.

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

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

19 6. "Food" means a raw, cooked, or processed edible
20 substance, ice, a beverage, an ingredient used or intended for
21 use or sale in whole or in part for human consumption, or
22 chewing gum.

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

25 8. "Food establishment" means an operation that stores,
26 prepares, packages, serves, vends, or otherwise provides food
27 for human consumption and includes a food service operation in
28 a school, summer camp, residential service substance abuse
29 treatment facility, halfway house substance abuse treatment
30 facility, correctional facility operated by the department of
31 corrections, the state training school, or the Iowa juvenile
32 home. "Food establishment" does not include the following:

33 a. A food processing plant.

34 b. An establishment that offers only prepackaged foods
35 that are nonpotentially hazardous.

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

* 3 d. Premises which are a home food establishment pursuant
4 to chapter 137D.

5 e. Premises which operate as a farmers market.

6 f. Premises of a residence in which food that is
7 nonpotentially hazardous is sold for consumption off-the-
8 premises, if the food is labeled to identify the name and
9 address of the person preparing the food and the common name
10 of the food. As used in this subsection, food that is
11 nonpotentially hazardous means only the following:

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

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

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

20 g. A kitchen in a private home, if only food that is
21 nonpotentially hazardous is prepared for sale or service at a
22 function such as a religious or charitable organization's bake
23 sale and if the consumer is informed by a clearly visible
24 placard at the sales or service location that the food is
25 prepared in a kitchen that is not subject to regulation and
26 inspection by the regulatory authority or in an area where
27 food that is prepared as specified above is sold or offered
28 for human consumption. The creation and placing of a placard
29 at the sales or service location pursuant to this paragraph
30 shall be the responsibility of the religious, charitable, or
31 other sponsoring organization.

32 h. A kitchen in a private home or a bed and breakfast
33 home.

34 i. A private home that receives catered or home-delivered
35 food.

- 1 j. Child day care facilities and other food establishment
2 facilities located in hospitals or health care facilities
3 which are subject to inspection by other state agencies or
4 divisions of the department.
- 5 k. Supply vehicles, vending machine locations, or
6 boardinghouses for permanent guests.
- 7 1. Establishments exclusively engaged in the processing of
8 meat and poultry which are licensed pursuant to section
9 189A.3.
- 10 m. Premises covered by a current class "A" beer permit as
11 provided in chapter 123.
- 12 9. "Food processing plant" means a commercial operation
13 that manufactures, packages, labels, or stores food for human
14 consumption and does not provide food directly to a consumer.
15 "Food processing plant" does not include premises covered by a
16 class "A" beer permit as provided in chapter 123.
- 17 10. "Mobile food unit" means a food establishment that is
18 readily movable, which either operates up to three consecutive
19 days at one location or returns to a home base of operation at
20 the end of each day.
- 21 11. "Municipal corporation" means a political subdivision
22 of this state.
- 23 12. "Perishable food" means potentially hazardous food.
- 24 13. "Potentially hazardous food" means a food that is
25 natural or synthetic and is in a form capable of supporting
26 the rapid and progressive growth of infectious or toxigenic
27 microorganisms, or the growth and toxin production of
28 clostridium botulinum. "Potentially hazardous food" includes
29 an animal food that is raw or heat-treated, a food of plant
30 origin that is heat-treated or consists of raw seed sprouts,
31 cut melons, and garlic and oil mixtures. "Potentially
32 hazardous food" does not include the following:
- 33 a. An air-cooled hard-boiled egg with shell intact.
34 b. A food with a water activity value of 0.85 or less.
35 c. A food with a hydrogen ion concentration (pH) level of

1 4.6 or below when measured at twenty-four degrees Centigrade
2 or seventy-five degrees Fahrenheit.

3 d. A food, in an unopened hermetically sealed container,
4 that is commercially processed to achieve and maintain
5 commercial sterility under conditions of nonrefrigerated
6 storage and distribution.

7 14. "Pushcart" means a non-self-propelled vehicle food
8 establishment limited to serving nonpotentially hazardous
9 foods or commissary-wrapped foods maintained at proper
10 temperatures, or limited to the preparation and serving of
11 frankfurters.

12 15. "Regulatory authority" means the department or a
13 municipal corporation that has entered into an agreement with
14 the director pursuant to section 137F.3 for authority to
15 enforce this chapter in its jurisdiction.

16 16. "Temporary food establishment" means a food
17 establishment that operates for a period of no more than
18 fourteen consecutive days in conjunction with a single event
19 or celebration.

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

25 18. "Vending machine location" means the physical site
26 where a vending machine is installed and operated, including
27 the storage and servicing areas on the premises that are used
28 in conjunction with the vending machine.

29 Sec. 7. NEW SECTION. 137F.2 ADOPTION BY RULE.

30 The director shall adopt the food code with the following
31 exceptions:

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

35 2. A food processing plant shall comply with the "Current

1 Good Manufacturing Practices in Manufacturing, Processing,
2 Packing, or Holding Human Food" as found in the latest version
3 of 21 C.F.R. pt. 110, and with rules adopted by the department
4 to enforce the practices.

5 3. A vending machine commissary shall be inspected at
6 least once each calendar year.

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

11 5. 1-201.10(B)(31) and 3-403.10 shall be deleted.

12 6. 3-201-11(B) shall be amended to allow food prepared by
13 a home food establishment licensed under chapter 137D or by an
14 operation specified under section 137F.1, subsection 8,
15 paragraph "f", to be used or offered for sale.

16 7. 3-501.16 shall be amended by adding the following:
17 "Shell eggs shall be received and held at an ambient
18 temperature not to exceed forty-five degrees Fahrenheit or
19 seven degrees Celsius."

20 8. 3-502.12(A) shall be amended by adding the following:
21 "Packaging of raw meat and raw poultry using an oxygen
22 packaging method, with a thirty-day 'sell by' date from the
23 date it was packaged, shall be exempt from having an HACCP
24 Plan that contains the information required in this section
25 and section 8-201.14."

26 9. 3-603.11 shall be amended by adding the following:
27 "The following standardized language shall be used on the
28 required consumer advisory: 'Thoroughly cooking foods of
29 animal origin such as beef, eggs, fish, lamb, pork, poultry,
30 or shellfish reduces the risk of food-borne illness.
31 Individuals with certain health conditions may be at higher
32 risk if these foods are consumed raw or undercooked. Consult
33 your physician or public health official for further
34 information.'"

35 10. A carbonating device in a food establishment shall

1 have a dual check valve which shall be installed so that it is
2 upstream from the carbonating device and downstream from any
3 copper in the water supply line.

4 Sec. 8. NEW SECTION. 137F.3 AUTHORITY TO ENFORCE.

5 The director shall regulate, license, and inspect food
6 establishments and food processing plants and enforce this
7 chapter pursuant to rules adopted by the department in
8 accordance with chapter 17A. Municipal corporations shall not
9 regulate, license, inspect, or collect license fees from food
10 establishments and food processing plants, except as provided
11 in this section.

12 A municipal corporation may enter into an agreement with
13 the director to provide that the municipal corporation shall
14 license, inspect, and otherwise enforce this chapter within
15 its jurisdiction. The director may enter into the agreement
16 if the director finds that the municipal corporation has
17 adequate resources to perform the required functions.
18 However, the department shall license and inspect all food
19 processing plants which manufacture, package, or label food
20 products. A municipal corporation may license and inspect, as
21 authorized by this section, food processing plants whose
22 operations are limited to the storage of food products.

23 If the director enters into an agreement with a municipal
24 corporation as provided by this section, the director shall
25 provide that the inspection practices of a municipal
26 corporation are spot-checked on a regular basis.

27 A municipal corporation that is responsible for enforcing
28 this chapter within its jurisdiction pursuant to an agreement
29 shall make an annual report to the director providing the
30 following information:

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

33 2. The number of licenses granted or renewed by the
34 municipal corporation under this chapter during the year in
35 each of the following categories:

- 1 a. Food establishments.
- 2 b. Food processing plants.
- 3 c. Mobile food units and pushcarts.
- 4 d. Temporary food establishments.
- 5 e. Vending machines.
- 6 3. The amount of money collected in license fees during
- 7 the year.
- 8 4. Other information the director requests.

9 The director shall monitor municipal corporations which
10 have entered into an agreement pursuant to this section to
11 determine if they are enforcing this chapter within their
12 respective jurisdictions. If the director determines that
13 this chapter is not enforced by a municipal corporation, the
14 director may rescind the agreement after reasonable notice and
15 an opportunity for a hearing. If the agreement is rescinded,
16 the director shall assume responsibility for enforcement in
17 the jurisdiction involved.

18 Sec. 9. NEW SECTION. 137F.4 LICENSE REQUIRED.

19 A person shall not open or operate a food establishment or
20 food processing plant until the appropriate license has been
21 obtained from the regulatory authority. Sale of products at
22 wholesale to outlets not owned by a commissary owner requires
23 a food processing plant license. A license shall expire one
24 year from the date of issue. A license is renewable. All
25 licenses issued under this chapter that are not renewed by the
26 licensee on or before the expiration date shall be subject to
27 a penalty of ten percent per month of the license fee if the
28 license is renewed at a later date.

29 Sec. 10. NEW SECTION. 137F.5 APPLICATION FOR LICENSE.

30 An application form prescribed by the department for a
31 license under this chapter shall be obtained from the
32 department or from a municipal corporation which is a
33 regulatory authority. A completed application shall be
34 submitted to the appropriate regulatory authority.

35 The dominant form of business shall determine the type of

1 license for establishments which engage in operations covered
2 under both the definition of a food establishment and of a
3 food processing plant.

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

6 An application for renewal of a license shall be made at
7 least thirty days before the expiration of the existing
8 license.

9 Sec. 11. NEW SECTION. 137F.6 LICENSE FEES.

10 The regulatory authority shall collect the following annual
11 license fees:

12 1. For a mobile food unit or pushcart, seventy-five
13 dollars.

14 2. For a temporary food establishment per fixed location,
15 twenty-five dollars.

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

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

22 a. Annual gross sales of under fifty thousand dollars,
23 sixty dollars.

24 b. Annual gross sales of at least fifty thousand dollars
25 but less than one hundred thousand dollars, one hundred
26 dollars.

27 c. Annual gross sales of at least one hundred thousand
28 dollars but less than two hundred fifty thousand dollars, two
29 hundred dollars.

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

32 5. For a food establishment or section of a food
33 establishment, which sells food or food products to consumer
34 customers intended for preparation or consumption off-the-
35 premises, the annual license fee shall correspond to the

1 annual gross sales of the food establishment, as follows:

2 a. Annual gross sales of under ten thousand dollars,
3 thirty dollars.

4 b. Annual gross sales of at least ten thousand dollars but
5 less than two hundred fifty thousand dollars, seventy-five
6 dollars.

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

10 d. Annual gross sales of at least five hundred thousand
11 dollars but less than seven hundred fifty thousand dollars,
12 one hundred fifty dollars.

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

15 6. For a food processing plant, the annual license fee
16 shall correspond to the annual gross sales of the food
17 processing plant, as follows:

18 a. Annual gross sales of under fifty thousand dollars,
19 fifty dollars.

20 b. Annual gross sales of at least fifty thousand dollars
21 but less than two hundred fifty thousand dollars, one hundred
22 dollars.

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

26 d. Annual gross sales of five hundred thousand dollars or
27 more, two hundred fifty dollars.

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

30 Fees collected by the department shall be deposited in the
31 general fund of the state. Fees collected by a municipal
32 corporation shall be retained by the municipal corporation for
33 regulation of food establishments and food processing plants
34 licensed under this chapter.

35 Each vending machine licensed under this chapter shall bear

1 a readily visible identification tag or decal provided by the
2 licensee, containing the licensee's business address and phone
3 number, and a company license number assigned by the
4 regulatory authority.

5 Sec. 12. NEW SECTION. 137F.7 SUSPENSION OR REVOCATION OF
6 LICENSES.

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

10 1. The person's food establishment or food processing
11 plant does not conform to a provision of this chapter or a
12 rule adopted pursuant to this chapter.

13 2. The person conducts an activity constituting a criminal
14 offense in the food establishment or food processing plant and
15 is convicted of a serious misdemeanor or a more serious
16 offense as a result.

17 A licensee may appeal a suspension or revocation in
18 accordance with rules adopted by the department.

19 Sec. 13. NEW SECTION. 137F.8 FARMERS MARKETS.

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

23 Sec. 14. NEW SECTION. 137F.9 OPERATION WITHOUT
24 INSPECTION PROHIBITED.

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

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

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

33 Sec. 15. NEW SECTION. 137F.10 REGULAR INSPECTIONS.

34 The appropriate regulatory authority shall provide for the
35 inspection of each food establishment and food processing

1 plant in this state in accordance with this chapter and with
2 rules adopted pursuant to this chapter in accordance with
3 chapter 17A. A regulatory authority may enter a food
4 establishment or food processing plant at any reasonable hour
5 to conduct an inspection. The manager or person in charge of
6 the food establishment or food processing plant shall afford
7 free access to every part of the premises and render all aid
8 and assistance necessary to enable the regulatory authority to
9 make a thorough and complete inspection.

10 Sec. 16. NEW SECTION. 137F.11 INSPECTION UPON COMPLAINT.

11 Upon receipt of a complaint by a customer of a food
12 establishment or food processing plant stating facts
13 indicating the premises are in an unsanitary condition, the
14 regulatory authority may conduct an inspection.

15 Sec. 17. NEW SECTION. 137F.12 PLUMBING.

16 A food establishment or food processing plant shall have an
17 adequately designed plumbing system conforming to at least the
18 minimum requirements of the state plumbing code, or local
19 plumbing code, whichever is more stringent. The plumbing
20 system shall have a connection to a municipal water and sewer
21 system or to a benefited water district or sanitary district
22 if such facilities are available.

23 Sec. 18. NEW SECTION. 137F.13 WATER AND WASTE TREATMENT.

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

28 Sec. 19. NEW SECTION. 137F.14 TOILETS AND LAVATORIES.

29 A food establishment or food processing plant shall provide
30 toilet and lavatory facilities in accordance with rules
31 adopted by the department pursuant to this chapter in
32 accordance with chapter 17A.

33 Sec. 20. NEW SECTION. 137F.15 FIRE SAFETY.

34 A violation of a fire safety rule adopted pursuant to
35 section 100.35 and applicable to food establishments or food

1 processing plants which occurs on the premises of a food
2 establishment or food processing plant is a violation of this
3 chapter.

4 Sec. 21. NEW SECTION. 137F.16 CONFLICTS WITH STATE
5 BUILDING CODE.

6 Provisions of this chapter in conflict with the state
7 building code shall not apply where the state building code
8 has been adopted or when the state building code applies
9 throughout the state.

10 Sec. 22. NEW SECTION. 137F.17 PENALTY.

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

13 Sec. 23. NEW SECTION. 137F.18 INJUNCTION.

14 A person opening or operating a food establishment or food
15 processing plant in violation of this chapter may be enjoined
16 from further operation of the establishment or plant. If an
17 imminent health hazard exists, the establishment or plant must
18 cease operation. Operation shall not be resumed until
19 authorized by the regulatory authority.

20 Sec. 24. NEW SECTION. 137F.19 DUTY OF COUNTY OR CITY
21 ATTORNEY.

22 The county attorney in each county or city attorney in each
23 city shall assist in the enforcement of this chapter.

24 Sec. 25. Section 172A.6, unnumbered paragraph 1, Code
25 1997, is amended to read as follows:

26 The license and financial responsibility provisions of this
27 chapter shall not apply to any person who is licensed by the
28 secretary as provided in chapter ~~137A~~ 137F, 171, or 172 and
29 who purchases livestock for slaughter valued at less than an
30 average daily value of two thousand five hundred dollars
31 during the preceding twelve months or such part thereof as the
32 person was purchasing livestock. Said licensees are made
33 subject to this chapter as to the regulatory and penal
34 provisions hereof. All other provisions of this chapter shall
35 apply to said dealers or brokers.

1 Sec. 26. Section 189A.3, unnumbered paragraph 1, Code
2 1997, is amended to read as follows:

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

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

10 5. The board shall not regulate, license, inspect, or
11 collect license fees from food service establishments or food
12 and beverage vending machines except as provided in chapter
13 ~~137B~~ 137F or from hotels except as provided in chapter 137C or
14 ~~for food-and-beverage-vending-machines-except-as-provided-in~~
15 ~~section-137E-3.~~

16 Sec. 28. Section 331.756, subsection 32, Code Supplement
17 1997, is amended to read as follows:

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

22 Sec. 29. Chapters 137A, 137B, and 137E, Code 1997, are
23 repealed.

24 Sec. 30. EFFECTIVE DATE AND TRANSITION PROVISIONS.

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

26 2. A license issued pursuant to chapter 137A, 137B, or
27 137E before the effective date of this Act shall remain valid
28 and be deemed the same as a license issued pursuant to chapter
29 137F for the remaining term of the license.

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

33

34

35

HOUSE FILE 2166

S-5281

- 1 Amend House File 2166, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 4, by striking line 16 and inserting the
4 following: "of forty-five degrees Fahrenheit or seven
5 degrees Celsius or".
- 6 2. Page 4, by striking lines 20 through 31.
- 7 3. Page 4, line 32, by inserting after the word
8 "home" the following: "where food is prepared or
9 stored for family consumption".
- 10 4. Page 4, line 32, by inserting after the word
11 "or" the following: "in".
- 12 5. Page 6, line 32, by striking the word "A" and
13 inserting the following: "Places used by a".
- 14 6. Page 6, line 34, by striking the word "is" and
15 inserting the following: "are".
- 16 7. Page 7, line 8, by striking the words "not
17 potentially" and inserting the following:
18 "nonpotentially".
- 19 8. Page 7, by inserting after line 15 the
20 following:
- 21 "6A. 3-301.11(B) shall be amended by deleting the
22 section and replacing it with the following:
- 23 (1) Except when washing fruits and vegetables,
24 food employees should, to the extent practicable,
25 avoid contact with exposed, ready-to-eat food with
26 their bare hands. Where ready-to-eat food is
27 routinely handled by employees, employers should adopt
28 reasonable sanitary procedures to reduce the risk of
29 the transmission of pathogenic organisms.
- 30 (2) In seeking to minimize employees' physical
31 contact with ready-to-eat foods, no single method or
32 device is universally practical or necessarily the
33 most effective method to prevent the transmission of
34 pathogenic organisms in all situations. As such, each
35 public food service establishment shall review its
36 operations to identify procedures where ready-to-eat
37 food must be routinely handled by its employees and
38 adopt one or more of the following sanitary
39 alternatives, to be used either alone or in
40 combination, to prevent the transmission of pathogenic
41 organisms:
- 42 (a) The use of suitable food handling materials
43 including, but not limited to, deli tissues,
44 appropriate utensils, or dispensing equipment. Such
45 materials must be used in conjunction with thorough
46 hand washing practices in accord with paragraph (c).
- 47 (b) The use of single-use gloves, for the purpose
48 of preparing or handling ready-to-eat foods, shall be
49 discarded when damaged or soiled or when the process
50 of food preparation or handling is interrupted.

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Div. A

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1 Single-use gloves must be used in conjunction with
2 thorough hand washing practices in accord with
3 paragraph (c).

4 (c) The use, pursuant to the manufacturer's
5 instructions, of anti-microbial soaps, with the
6 additional optional use of anti-bacterial protective
7 skin lotions or anti-microbial hand sanitizers,
8 rinses, or dips. All such soaps, lotions, sanitizers,
9 rinses, and dips must contain active topical anti-
10 microbial or anti-bacterial ingredients, registered by
11 the United States environmental protection agency,
12 cleared by the United States food and drug
13 administration, and approved by the United States
14 department of agriculture.

15 (d) The use of such other practices, devices, or
16 products that are found by the division to achieve a
17 comparable level of protection to one or more of the
18 sanitary alternatives in paragraphs (a) through (c).

19 (3) Regardless of the sanitary alternatives in
20 use, each public food service establishment shall
21 establish:

22 (a) Systematic focused education and training of
23 all food service employees involved in the identified
24 procedures regarding the potential for transmission of
25 pathogenic organisms from contact with ready-to-eat
26 food. The importance of proper hand washing and
27 hygiene in preventing the transmission of illness, and
28 the effective use of the sanitary alternatives and
29 monitoring systems utilized by the public food service
30 establishment, shall be reinforced. The content and
31 duration of this training shall be determined by the
32 manager of the public food service establishment.

33 (b) A monitoring system to demonstrate the proper
34 and effective use of the sanitary alternatives
35 utilized by the public food service establishment."

36 9. Page 8, line 17, by inserting after the word
37 "functions." the following: "A municipal corporation
38 may only enter into an agreement to enforce the Iowa
39 food code pursuant to this section if it also agrees
40 to enforce the Iowa hotel sanitation code pursuant to
41 section 137C.6."

42 10. Page 9, lines 19 and 20, by striking the
43 words "open or operate a food establishment or food
44 processing plant" and inserting the following:
45 "operate a food establishment or food processing plant
46 to provide goods or services to the general public, or
47 open a food establishment to the general public,".

48 11. Page 10, lines 18 and 19, by striking the
49 words "or a section of a food establishment,".

50 12. Page 10, line 20, by striking the word

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Div A

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Page 3

1 "service," and inserting the following: "service
2 intended for consumption on-the-premises,".

3 13. Page 10, line 21, by inserting after the word
4 "gross" the following: "food and beverage".

5 14. Page 10, lines 32 and 33, by striking the
6 words "or section of a food establishment,".

7 15. Page 11, line 1, by inserting after the word
8 "gross" the following: "food and beverage".

9 16. Page 11, line 16, by inserting after the word
10 "gross" the following: "food and beverage".

11 17. Page 11, line 29, by inserting after the word
12 "fees" the following: "not to exceed seventy-five

A 13 percent of the total fees applicable".

14 18. Page 11, by inserting after line 29 the
15 following:

16 "Any fee increase imposed in this section over fee
17 levels in effect for the year immediately preceding
18 the effective date of this Act shall be phased in over
19 two years. For the year beginning on the effective
20 date of this Act, fees imposed in this section shall
21 be reduced by fifty percent of the difference between
22 the fee level imposed in this section and the fee
23 level in effect for the year immediately preceding the
24 effective date of this Act. For the year beginning
25 one year from the effective date of this Act, and each
26 year thereafter, the fees shall increase to one
27 hundred percent of the levels imposed in this
28 section."

B

29 19. Page 14, line 12, by striking the words
30 "commits a simple misdemeanor" and inserting the
31 following: "shall be subject to a civil penalty of
32 one hundred dollars for each violation".

A

33 20. By renumbering, relettering, or redesignating
34 and correcting internal references as necessary.

By COMMITTEE ON WAYS AND MEANS
JOANN DOUGLAS, Chairperson

S-5281 FILED MARCH 18, 1998

A. Adopted 4-7-98 P.1120
B. W/D 4-7-98



S-5419

- 1 Amend House File 2166, as amended, passed, and
 2 reprinted by the House, as follows:
- 3 1. Page 10, line 12, by striking the words
 - 4 "seventy-five" and inserting the following: "ten".
 - 5 2. Page 10, line 15, by striking the words
 - 6 "twenty-five" and inserting the following: "ten".
 - 7 3. Page 10, by striking lines 16 and 17 and
 - 8 inserting the following:
 - 9 "3. For a vending machine, two dollars per vending
 - 10 machine."
 - 11 4. Page 10, line 23, by striking the word "sixty"
 - 12 and inserting the following: "forty".
 - 13 5. Page 10, line 25, by striking the words "one
 - 14 hundred" and inserting the following: "seventy".
 - 15 6. Page 10, by striking lines 28 and 29 and
 - 16 inserting the following: "dollars but less than two
 - 17 hundred fifty thousand dollars, one hundred twenty-
 - 18 five dollars."
 - 19 7. Page 10, line 31, by striking the words "two
 - 20 hundred twenty-five" and inserting the following:
 - 21 "one hundred fifty".
 - 22 8. Page 11, line 3, by striking the word "thirty"
 - 23 and inserting the following: "twenty".
 - 24 9. Page 11, line 5, by striking the words
 - 25 "seventy-five" and inserting the following: "fifty".
 - 26 10. Page 11, line 9, by striking the words "one
 - 27 hundred fifteen" and inserting the following:
 - 28 "seventy-five".
 - 29 11. Page 11, line 12, by striking the word
 - 30 "fifty".
 - 31 12. Page 11, line 14, by striking the words "two
 - 32 hundred twenty-five" and inserting the following:
 - 33 "one hundred fifty".
 - 34 13. Page 11, lines 18 and 19, by striking the
 - 35 words "fifty thousand dollars, fifty" and inserting
 - 36 the following: "ten thousand dollars, twenty".
 - 37 14. Page 11, by striking lines 20 through 22 and
 - 38 inserting the following:
 - 39 "b. Annual gross sales of at least ten thousand
 - 40 dollars but less than two hundred fifty thousand
 - 41 dollars, fifty dollars."
 - 42 15. Page 11, line 25, by striking the words "one
 - 43 hundred fifty" and inserting the following: "seventy-
 - 44 five".
 - 45 16. Page 11, by striking lines 26 and 27 and
 - 46 inserting the following:
 - 47 "d. Annual gross sales of at least five hundred
 - 48 thousand dollars but less than seven hundred fifty
 - 49 thousand dollars, one hundred dollars.
 - 50 e. Annual gross sales of seven hundred fifty

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1 thousand dollars or more, one hundred fifty dollars."

By ALLEN BORLAUG

NEAL SCHUERER

S-5419 FILED MARCH 30, 1998

WITHDRAWN 4-7-98

HOUSE FILE 2166

S-5381

Amend House File 2166, as amended, passed, and reprinted by the House, as follows:

3 1. Page 10, line 23, by striking the word "sixty"
4 and inserting the following: "fifty".

5 2. Page 10, line 25, by striking the words
6 "dollars, one hundred" and inserting the following:
7 "dollars, eighty-five".

8 3. Page 10, line 28, by striking the words
9 "dollars, two" and inserting the following: "dollars,
10 one".

11 4. Page 10, line 29, by inserting after the word
12 "hundred" the following: "seventy-five".

13 5. Page 10, by striking line 31 and inserting the
14 following: "dollars but less than five hundred
15 thousand dollars, two hundred dollars".

16 6. Page 10, by inserting after line 31 the
17 following:
18 "e. Annual gross sales of five hundred thousand
19 dollars or more, two hundred twenty-five dollars."

By ALLEN BORLAUG
NEAL SCHUERER

S-5381 FILED MARCH 25, 1998

Adopted
4-7-98
(p. 1121)

HOUSE FILE 2166

S-5418

1 Amend House File 2166, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 11, line 34, by striking the word
4 "chapter" and inserting the following: "chapter,
5 except for an administrative fee of not more than ten
6 percent of the total license fees collected in a
7 fiscal year as provided by rule of the department
8 adopted pursuant to chapter 17A. The administrative
9 fee for a fiscal year shall be forwarded to the
10 department no later than June 10 of that fiscal year
11 and credited to the general fund of the state."

By ALLEN BORLAUG
NEAL SCHUERER

S-5418 FILED MARCH 30, 1998

W/D
4-7-98
(p. 1120)

HOUSE FILE 2166

S-5510

1 Amend House File 2166, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 11, line 34, by striking the word
4 "chapter" and inserting the following: "chapter,
5 except for an administrative fee of not more than five
6 percent of the total license fees collected in a
7 fiscal year as provided by rule of the department
8 adopted pursuant to chapter 17A. The administrative
9 fee for a fiscal year shall be forwarded to the
10 department no later than June 10 of that fiscal year
11 and retained by the department to implement the
12 provisions of this chapter."

By ALLEN BORLAUG
NEAL SCHUERER

Last 4-7-98

S-5510 FILED APRIL 6, 1998

HOUSE FILE 2166

S-5519

1 Amend House File 2166, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, by striking lines 23 through 32.
4 2. By renumbering as necessary.

By NEAL SCHUERER

W/D 4-7-98

S-5519 FILED APRIL 6, 1998

HOUSE FILE 2166

S-5566

1 Amend the amendment, S-5381, to House File 2166, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. By inserting after line 2 the following:
5 "____. Page 10, line 12, by striking the word
6 "seventy-five" and inserting the following:
7 "twenty"."

By MAGGIE TINSMAN
NANCY BOETTGER

S-5566 FILED APRIL 7, 1998

ADOPTED

(P. 1121)

SENATE AMENDMENT TO HOUSE FILE 2166

H-8996

1 Amend House File 2166, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 4, by striking line 16 and inserting the
4 following: "of forty-five degrees Fahrenheit or seven
5 degrees Celsius or".
6 2. Page 4, by striking lines 20 through 31.
7 3. Page 4, line 32, by inserting after the word
8 "home" the following: "where food is prepared or
9 stored for family consumption".
10 4. Page 4, line 32, by inserting after the word
11 "or" the following: "in".
12 5. Page 6, line 32, by striking the word "A" and
13 inserting the following: "Places used by a".
14 6. Page 6, line 34, by striking the word "is" and
15 inserting the following: "are".
16 7. Page 7, line 8, by striking the words "not
17 potentially" and inserting the following:
18 "nonpotentially".
19 8. Page 7, by inserting after line 15 the
20 following:
21 "6A. 3-301.11(B) shall be amended by deleting the
22 section and replacing it with the following:
23 (1) Except when washing fruits and vegetables,
24 food employees should, to the extent practicable,
25 avoid contact with exposed, ready-to-eat food with
26 their bare hands. Where ready-to-eat food is
27 routinely handled by employees, employers should adopt
28 reasonable sanitary procedures to reduce the risk of
29 the transmission of pathogenic organisms.
30 (2) In seeking to minimize employees' physical
31 contact with ready-to-eat foods, no single method or
32 device is universally practical or necessarily the
33 most effective method to prevent the transmission of
34 pathogenic organisms in all situations. As such, each
35 public food service establishment shall review its
36 operations to identify procedures where ready-to-eat
37 food must be routinely handled by its employees and
38 adopt one or more of the following sanitary
39 alternatives, to be used either alone or in
40 combination, to prevent the transmission of pathogenic
41 organisms:
42 (a) The use of suitable food handling materials
43 including, but not limited to, deli tissues,
44 appropriate utensils, or dispensing equipment. Such
45 materials must be used in conjunction with thorough
46 hand washing practices in accord with paragraph (c).
47 (b) The use of single-use gloves, for the purpose
48 of preparing or handling ready-to-eat foods, shall be
49 discarded when damaged or soiled or when the process
50 of food preparation or handling is interrupted.

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1 Single-use gloves must be used in conjunction with
2 thorough hand washing practices in accord with
3 paragraph (c).

4 (c) The use, pursuant to the manufacturer's
5 instructions, of anti-microbial soaps, with the
6 additional optional use of anti-bacterial protective
7 skin lotions or anti-microbial hand sanitizers,
8 rinses, or dips. All such soaps, lotions, sanitizers,
9 rinses, and dips must contain active topical anti-
10 microbial or anti-bacterial ingredients, registered by
11 the United States environmental protection agency,
12 cleared by the United States food and drug
13 administration, and approved by the United States
14 department of agriculture.

15 (d) The use of such other practices, devices, or
16 products that are found by the division to achieve a
17 comparable level of protection to one or more of the
18 sanitary alternatives in paragraphs (a) through (c).

19 (3) Regardless of the sanitary alternatives in
20 use, each public food service establishment shall
21 establish:

22 (a) Systematic focused education and training of
23 all food service employees involved in the identified
24 procedures regarding the potential for transmission of
25 pathogenic organisms from contact with ready-to-eat
26 food. The importance of proper hand washing and
27 hygiene in preventing the transmission of illness, and
28 the effective use of the sanitary alternatives and
29 monitoring systems utilized by the public food service
30 establishment, shall be reinforced. The content and
31 duration of this training shall be determined by the
32 manager of the public food service establishment.

33 (b) A monitoring system to demonstrate the proper
34 and effective use of the sanitary alternatives
35 utilized by the public food service establishment."

36 9. Page 8, line 17, by inserting after the word
37 "functions." the following: "A municipal corporation
38 may only enter into an agreement to enforce the Iowa
39 food code pursuant to this section if it also agrees
40 to enforce the Iowa hotel sanitation code pursuant to
41 section 137C.6."

42 10. Page 9, lines 19 and 20, by striking the
43 words "open or operate a food establishment or food
44 processing plant" and inserting the following:
45 "operate a food establishment or food processing plant
46 to provide goods or services to the general public, or
47 open a food establishment to the general public,".

48 11. Page 10, line 12, by striking the word
49 "seventy-five" and inserting the following: "twenty".

50 12. Page 10, lines 18 and 19, by striking the

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- 1 words "or a section of a food establishment,".
2 13. Page 10, line 20, by striking the word
3 "service," and inserting the following: "service
4 intended for consumption on-the-premises,".
5 14. Page 10, line 21, by inserting after the word
6 "gross" the following: "food and beverage".
7 15. Page 10, line 23, by striking the word
8 "sixty" and inserting the following: "fifty".
9 16. Page 10, line 25, by striking the words
10 "dollars, one hundred" and inserting the following:
11 "dollars, eighty-five".
12 17. Page 10, line 28, by striking the words
13 "dollars, two" and inserting the following: "dollars,
14 one".
15 18. Page 10, line 29, by inserting after the word
16 "hundred" the following: "seventy-five".
17 19. Page 10, by striking line 31 and inserting
18 the following: "dollars but less than five hundred
19 thousand dollars, two hundred dollars".
20 20. Page 10, by inserting after line 31 the
21 following:
22 "e. Annual gross sales of five hundred thousand
23 dollars or more, two hundred twenty-five dollars."
24 21. Page 10, lines 32 and 33, by striking the
25 words "or section of a food establishment,".
26 22. Page 11, line 1, by inserting after the word
27 "gross" the following: "food and beverage".
28 23. Page 11, line 16, by inserting after the word
29 "gross" the following: "food and beverage".
30 24. Page 11, line 29, by inserting after the word
31 "fees" the following: "not to exceed seventy-five
32 percent of the total fees applicable".
33 25. Page 14, line 12, by striking the words
34 "commits a simple misdemeanor" and inserting the
35 following: "shall be subject to a civil penalty of
36 one hundred dollars for each violation".
37 26. By renumbering, relettering, or redesignating
38 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-8996 FILED APRIL 8, 1998

House Concurred
4-15, 98 (p. 1639)

HOUSE FILE 2166

H-9122

- 1 Amend the Senate amendment, H-8996, to House File
- 2 2166, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 3, by striking lines 7 through 23.
- 5 2. By renumbering as necessary.

By BLODGETT of Cerro Gordo

H-9122 FILED APRIL 13, 1998

Lost 4/15/98 (p. 1639)

HOUSE FILE 2166

H-9123

- 1 Amend the Senate amendment, H-8996, to House File
- 2 2166, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 3, by striking lines 30 through 32.
- 5 2. By renumbering as necessary.

By BLODGETT of Cerro Gordo

H-9123 FILED APRIL 13, 1998

*Lost 4/15/98
(p. 1639)*

HOUSE FILE 2166

AN ACT

RELATING TO REGULATION OF FOOD ESTABLISHMENTS AND PROVIDING
FOR FEES AND PENALTIES AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

The fire marshal shall adopt, and may amend rules under chapter 17A, which include standards relating to exits and exit lights, fire escapes, fire protection, fire safety and the elimination of fire hazards, in and for churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, apartment buildings, food establishments as defined in section ~~137A-17-subsection-57-food-service-establishments-as-defined in-section-137B-27-subsection-6~~ 137F.1, and all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned. Violation of a rule adopted by the fire marshal is a simple misdemeanor. However, upon proof that the fire marshal gave written notice to the defendant of the violation, and proof that the violation constituted a clear and present danger to life, and proof that the defendant failed to eliminate the condition giving rise to the violation within thirty days after receipt of notice from the fire marshal, the penalty is that provided by law for a serious misdemeanor. Each day of the continuing

violation of a rule after conviction of a violation of the rule is a separate offense. A conviction is subject to appeal as in other criminal cases.

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

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the director. The director may enter into the agreement if the director finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the Iowa food service-sanitation code pursuant to section ~~137B-6 and-the-food-and-beverage-vending-machine-laws-pursuant-to section-137B-3~~ 137P.3.

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

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

Sec. 5. NEW SECTION. 137D.9 EXEMPTION.

This chapter shall not apply to a home food establishment having gross annual sales of prepared food of one thousand dollars or less, if the person who prepares the food sells or offers to sell the food on or off the premises of the home food establishment and if the food is labeled to identify the name and address of the person preparing the food and the

common name of the food, and to state that the food is prepared in a kitchen that is not subject to state inspection, regulation, or licensure.

Sec. 6. NEW SECTION. 137F.1 DEFINITIONS.

For the purpose of this chapter:

1. "Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than four guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel, does not require reservations, and serves food only to overnight guests.
2. "Commissary" means a food establishment used for preparing, fabricating, packaging, and storage of food or food products for distribution and sale through the food establishment's own food establishment outlets.
3. "Department" means the department of inspections and appeals.
4. "Director" means the director of the department of inspections and appeals.
5. "Farmers market" means a marketplace which seasonally operates principally as a common market for fresh fruits and vegetables on a retail basis for off-the-premises consumption.
6. "Food" means a raw, cooked, or processed edible substance, ice, a beverage, an ingredient used or intended for use or sale in whole or in part for human consumption, or chewing gum.
7. "Food code" means the 1997 edition of the United States food and drug administration food code.
8. "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption and includes a food service operation in a school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of

corrections, the state training school, or the Iowa juvenile home. "Food establishment" does not include the following:

- a. A food processing plant.
- b. An establishment that offers only prepackaged foods that are nonpotentially hazardous.
- c. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.
- d. Premises which are a home food establishment pursuant to chapter 137D.
- e. Premises which operate as a farmers market.
- f. Premises of a residence in which food that is nonpotentially hazardous is sold for consumption off-the-premises, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. As used in this subsection, food that is nonpotentially hazardous means only the following:
 - (1) Baked goods, except the following: soft pies, bakery products with custard or cream fillings, or any other potentially hazardous goods.
 - (2) Wholesome, fresh eggs that are kept at a temperature of forty-five degrees Fahrenheit or seven degrees Celsius or less.
 - (3) Honey which is labeled with additional information as provided by departmental rule.
- g. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.
- h. A private home that receives catered or home-delivered food.
 1. Child day care facilities and other food establishment facilities located in hospitals or health care facilities which are subject to inspection by other state agencies or divisions of the department.
 - j. Supply vehicles, vending machine locations, or boardinghouses for permanent guests.
 - k. Establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to section 189A.3.

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

9. "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. "Food processing plant" does not include premises covered by a class "A" beer permit as provided in chapter 123.

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

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

12. "Perishable food" means potentially hazardous food.

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

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

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

15. "Regulatory authority" means the department or a municipal corporation that has entered into an agreement with the director pursuant to section 137F.3 for authority to enforce this chapter in its jurisdiction.

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

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

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

Sec. 7. NEW SECTION. 137F.2 ADOPTION BY RULE.

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

1. Places used by a nonprofit organization which engages in the serving of food not more than one day per calendar week and not on two or more consecutive days are exempt from this chapter.

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

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

4. A vending machine which only dispenses prepackaged food that is nonpotentially hazardous is exempt from inspection and licensing, except upon receipt of a verified complaint by the regulatory authority.

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

6. 3-201.11(B) shall be amended to allow food prepared by a home food establishment licensed under chapter 137D or by an operation specified under section 137F.1, subsection 8, paragraph "E", to be used or offered for sale.

7. 3-301.11(B) shall be amended by deleting the section and replacing it with the following:

(1) Except when washing fruits and vegetables, food employees should, to the extent practicable, avoid contact with exposed, ready-to-eat food with their bare hands. Where ready-to-eat food is routinely handled by employees, employers should adopt reasonable sanitary procedures to reduce the risk of the transmission of pathogenic organisms.

(2) In seeking to minimize employees' physical contact with ready-to-eat foods, no single method or device is universally practical or necessarily the most effective method to prevent the transmission of pathogenic organisms in all situations. As such, each public food service establishment shall review its operations to identify procedures where ready-to-eat food must be routinely handled by its employees and adopt one or more of the following sanitary alternatives, to be used either alone or in combination, to prevent the transmission of pathogenic organisms:

(a) The use of suitable food handling materials including, but not limited to, deli tissues, appropriate utensils, or dispensing equipment. Such materials must be used in conjunction with thorough hand washing practices in accord with paragraph (c).

(b) The use of single-use gloves, for the purpose of preparing or handling ready-to-eat foods, shall be discarded when damaged or soiled or when the process of food preparation or handling is interrupted. Single-use gloves must be used in conjunction with thorough hand washing practices in accord with paragraph (c).

(c) The use, pursuant to the manufacturer's instructions, of anti-microbial soaps, with the additional optional use of anti-bacterial protective skin lotions or anti-microbial hand

sanitizers, rinses, or dips. All such soaps, lotions, sanitizers, rinses, and dips must contain active topical anti-microbial or anti-bacterial ingredients, registered by the United States environmental protection agency, cleared by the United States food and drug administration, and approved by the United States department of agriculture.

(d) The use of such other practices, devices, or products that are found by the division to achieve a comparable level of protection to one or more of the sanitary alternatives in paragraphs (a) through (c).

(3) Regardless of the sanitary alternatives in use, each public food service establishment shall establish:

(a) Systematic focused education and training of all food service employees involved in the identified procedures regarding the potential for transmission of pathogenic organisms from contact with ready-to-eat food. The importance of proper hand washing and hygiene in preventing the transmission of illness, and the effective use of the sanitary alternatives and monitoring systems utilized by the public food service establishment, shall be reinforced. The content and duration of this training shall be determined by the manager of the public food service establishment.

(b) A monitoring system to demonstrate the proper and effective use of the sanitary alternatives utilized by the public food service establishment.

8. 3-501.16 shall be amended by adding the following: "Shell eggs shall be received and held at an ambient temperature not to exceed forty-five degrees Fahrenheit or seven degrees Celsius."

9. 3-502.12(A) shall be amended by adding the following: "Packaging of raw meat and raw poultry using an oxygen packaging method, with a thirty-day 'sell by' date from the date it was packaged, shall be exempt from having an HACCP Plan that contains the information required in this section and section 8-201.14."

10. 3-603.11 shall be amended by adding the following: "The following standardized language shall be used on the required consumer advisory: 'Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of food-borne illness. Individuals with certain health conditions may be at higher risk if these foods are consumed raw or undercooked. Consult your physician or public health official for further information.'"

11. A carbonating device in a food establishment shall have a dual check valve which shall be installed so that it is upstream from the carbonating device and downstream from any copper in the water supply line.

Sec. 8. NEW SECTION. 137F.3 AUTHORITY TO ENFORCE.

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

A municipal corporation may enter into an agreement with the director to provide that the municipal corporation shall license, inspect, and otherwise enforce this chapter within its jurisdiction. The director may enter into the agreement if the director finds that the municipal corporation has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa food code pursuant to this section if it also agrees to enforce the Iowa hotel sanitation code pursuant to section 137C.6. However, the department shall license and inspect all food processing plants which manufacture, package, or label food products. A municipal corporation may license and inspect, as authorized by this section, food processing plants whose operations are limited to the storage of food products.

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

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

1. The total number of licenses granted or renewed by the municipal corporation under this chapter during the year.
2. The number of licenses granted or renewed by the municipal corporation under this chapter during the year in each of the following categories:
 - a. Food establishments.
 - b. Food processing plants.
 - c. Mobile food units and pushcarts.
 - d. Temporary food establishments.
 - e. Vending machines.
3. The amount of money collected in license fees during the year.
4. Other information the director requests.

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

Sec. 9. NEW SECTION. 137F.4 LICENSE REQUIRED.

A person shall not operate a food establishment or food processing plant to provide goods or services to the general public, or open a food establishment to the general public, until the appropriate license has been obtained from the regulatory authority. Sale of products at wholesale to

outlets not owned by a commissary owner requires a food processing plant license. A license shall expire one year from the date of issue. A license is renewable. All licenses issued under this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent per month of the license fee if the license is renewed at a later date.

Sec. 10. NEW SECTION. 137F.5 APPLICATION FOR LICENSE.

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

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

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

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

Sec. 11. NEW SECTION. 137F.6 LICENSE FEES.

The regulatory authority shall collect the following annual license fees:

1. For a mobile food unit or pushcart, twenty dollars.
2. For a temporary food establishment per fixed location, twenty-five dollars.
3. For a vending machine, twenty dollars for the first machine and five dollars for each additional machine.
4. For a food establishment which prepares or serves food for individual portion service intended for consumption on-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:

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

b. Annual gross sales of at least fifty thousand dollars but less than one hundred thousand dollars, eighty-five dollars.

c. Annual gross sales of at least one hundred thousand dollars but less than two hundred fifty thousand dollars, one hundred seventy-five dollars.

d. Annual gross sales of two hundred fifty thousand dollars but less than five hundred thousand dollars, two hundred dollars.

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

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

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

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

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

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

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

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

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

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

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

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

A food establishment covered by subsections 4 and 5 shall be assessed license fees not to exceed seventy-five percent of the total fees applicable under both subsections.

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

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

Sec. 12. NEW SECTION. 137F.7 SUSPENSION OR REVOCATION OF LICENSES.

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

1. The person's food establishment or food processing plant does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.
2. The person conducts an activity constituting a criminal offense in the food establishment or food processing plant and is convicted of a serious misdemeanor or a more serious offense as a result.

A licensee may appeal a suspension or revocation in accordance with rules adopted by the department.

Sec. 13. NEW SECTION. 137F.8 FARMERS MARKETS.

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

Sec. 14. NEW SECTION. 137P.9 OPERATION WITHOUT INSPECTION PROHIBITED.

A person shall not open or operate a food establishment or food processing plant until an inspection has been made and a license has been issued by the regulatory authority. Inspections shall be conducted according to standards adopted by rule of the department pursuant to chapter 17A.

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

Sec. 15. NEW SECTION. 137P.10 REGULAR INSPECTIONS.

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

Sec. 16. NEW SECTION. 137F.11 INSPECTION UPON COMPLAINT.

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

Sec. 17. NEW SECTION. 137F.12 PLUMBING.

A food establishment or food processing plant shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code, or local plumbing code, whichever is more stringent. The plumbing system shall have a connection to a municipal water and sewer

system or to a benefited water district or sanitary district if such facilities are available.

Sec. 18. NEW SECTION. 137F.13 WATER AND WASTE TREATMENT.

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

Sec. 19. NEW SECTION. 137F.14 TOILETS AND LAVATORIES.

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

Sec. 20. NEW SECTION. 137F.15 FIRE SAFETY.

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

Sec. 21. NEW SECTION. 137F.16 CONFLICTS WITH STATE BUILDING CODE.

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

Sec. 22. NEW SECTION. 137F.17 PENALTY.

A person who violates this chapter or rules adopted pursuant to this chapter shall be subject to a civil penalty of one hundred dollars for each violation.

Sec. 23. NEW SECTION. 137F.18 INJUNCTION.

A person opening or operating a food establishment or food processing plant in violation of this chapter may be enjoined from further operation of the establishment or plant. If an imminent health hazard exists, the establishment or plant must cease operation. Operation shall not be resumed until authorized by the regulatory authority.

Sec. 24. NEW SECTION. 137P.19 DUTY OF COUNTY OR CITY ATTORNEY.

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

Sec. 25. Section 172A.6, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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

Sec. 26. Section 189A.3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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

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

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

Sec. 28. Section 331.756, subsection 32, Code Supplement 1997, is amended to read as follows:

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

Sec. 29. Chapters 137A, 137B, and 137E, Code 1997, are repealed.

Sec. 30. EFFECTIVE DATE AND TRANSITION PROVISIONS.

1. This Act takes effect January 1, 1999.

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

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

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2166, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 5, 1998

TERRY E. BRANSTAD
Governor

HF 2166