

House Study Bill 138

Bill Text

PAG LIN

1 1 Section 1. Section [10A.104](#), subsection 9, Code 1997, is
1 2 amended to read as follows:
1 3 9. Administer and enforce this chapter, and chapters

~~99B,~~

1 4 135B, 135C,

~~135C, 135H, 135J, 137A, 137B,~~

~~137C, 137D, and~~

~~137E~~

1 5 [137F](#).

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

1 8 The fire marshal shall adopt, and may amend rules under
1 9 chapter 17A, which include standards relating to exits and
1 10 exit lights, fire escapes, fire protection, fire safety and
1 11 the elimination of fire hazards, in and for churches, schools,
1 12 hotels, theaters, amphitheaters, hospitals, health care
1 13 facilities as defined in section 135C.1, boarding homes or
1 14 housing, rest homes, dormitories, college buildings, lodge
1 15 halls, club rooms, public meeting places, places of amusement,
1 16 apartment buildings, food establishments and food processing
1 17 plants as defined in section

~~137A.1, subsection 5, food~~

1 18

~~service establishments as defined in section 137B.2,~~

1 19

~~subsection 6~~

~~137F.1~~, and all other buildings or structures in
1 20 which persons congregate from time to time, whether publicly
1 21 or privately owned. Violation of a rule adopted by the fire
1 22 marshal is a simple misdemeanor. However, upon proof that the
1 23 fire marshal gave written notice to the defendant of the
1 24 violation, and proof that the violation constituted a clear
1 25 and present danger to life, and proof that the defendant
1 26 failed to eliminate the condition giving rise to the violation
1 27 within thirty days after receipt of notice from the fire
1 28 marshal, the penalty is that provided by law for a serious
1 29 misdemeanor. Each day of the continuing violation of a rule
1 30 after conviction of a violation of the rule is a separate
1 31 offense. A conviction is subject to appeal as in other
1 32 criminal cases.

1 33 Sec. 3. Section [137C.6](#), unnumbered paragraph 2, Code 1997,
1 34 is amended to read as follows:

1 35 If a municipal corporation wants its local board of health
2 1 to license, inspect, and otherwise enforce the Iowa hotel
2 2 sanitation code within its jurisdiction, the municipal
2 3 corporation may enter into an agreement to do so with the

2 4 director. The director may enter into the agreement if the
2 5 director finds that the local board of health has adequate
2 6 resources to perform the required functions. A municipal
2 7 corporation may only enter into an agreement to enforce the
2 8 Iowa hotel sanitation code if it also agrees to enforce the
2 9 Iowa food

~~service sanitation~~

- code pursuant to section

~~137B.6~~

-
2 10

~~and the food and beverage vending machine laws pursuant to~~

-
2 11

~~section 137E.3~~

- 137F.3.

2 12 Sec. 4. Section [137C.35](#), unnumbered paragraph 1, Code
2 13 1997, is amended to read as follows:

2 14 This chapter does not apply to bed and breakfast homes as
2 15 defined in section

~~137B.2~~

- 137F.1. However, a bed and

2 16 breakfast home shall have a smoke detector in proper working
2 17 order in each sleeping room and a fire extinguisher in proper
2 18 working order on each floor. A bed and breakfast home which
2 19 does not receive its drinking water from a public water
2 20 supply, shall have its drinking water tested at least annually
2 21 by the state hygienic laboratory or the local board of health.
2 22 A violation of this section is punishable as provided in
2 23 section 137C.28.

2 24 Sec. 5. NEW SECTION. 137F.1 DEFINITIONS.

2 25 For the purpose of this chapter:

2 26 1. "Bed and breakfast home" means a private residence
2 27 which provides lodging and meals for guests, in which the host
2 28 or hostess resides and in which no more than two guest
2 29 families are lodged at the same time and which, while it may
2 30 advertise and accept reservations, does not hold itself out to
2 31 the public to be a restaurant, hotel, or motel, does not
2 32 require reservations, and serves food only to overnight
2 33 guests.

2 34 2. "Commissary" means a food establishment used for
2 35 preparing, fabricating, packaging, and storage of food or food
3 1 products for distribution and sale through the food
3 2 establishment's own food establishment outlets.

3 3 3. "Department" means the department of inspections and
3 4 appeals.

3 5 4. "Director" means the director of the department of
3 6 inspections and appeals.

3 7 5. "Farmers market" means a marketplace which seasonally
3 8 operates principally as a common market for fresh fruits and
3 9 vegetables on a retail basis for off-the-premises consumption.

3 10 6. "Food" means a raw, cooked, or processed edible
3 11 substance, ice, a beverage, an ingredient used or intended for
3 12 use or sale in whole or in part for human consumption, or
3 13 chewing gum.

3 14 7. "Food code" means the 1995 edition of the United States
3 15 food and drug administration food code.

3 16 8. "Food establishment" means an operation that stores,
3 17 prepares, packages, serves, vends, or otherwise provides food
3 18 for human consumption and includes a food service operation in
3 19 a school, summer camp, residential service substance abuse
3 20 treatment facility, halfway house substance abuse treatment

3 21 facility, correctional facility operated by the department of
3 22 corrections, the state training school, or the Iowa juvenile
3 23 home. "Food establishment" does not include the following:

- 3 24 a. A food processing plant.
- 3 25 b. An establishment that offers only prepackaged foods
3 26 that are nonpotentially hazardous.
- 3 27 c. A produce stand or facility which sells only whole,
3 28 uncut fresh fruits and vegetables.
- 3 29 d. Premises which are licensed as a home food
3 30 establishment pursuant to chapter 137D.
- 3 31 e. Premises which operate as a farmers market.
- 3 32 f. Premises of a residence in which food that is
3 33 nonpotentially hazardous is sold for consumption off-the-
3 34 premises, if the food is labeled to identify the name and
3 35 address of the person preparing the food and the common name
4 1 of the food. As used in this subsection, food that is
4 2 nonpotentially hazardous means only the following:
 - 4 3 (1) Baked goods, except the following: soft pies, bakery
4 4 products with custard or cream fillings, or any other
4 5 potentially hazardous goods.
 - 4 6 (2) Wholesome, fresh eggs that are kept at a temperature
4 7 of forty-one degrees Fahrenheit or five degrees Celsius or
4 8 less.
 - 4 9 (3) Honey which is labeled with additional information as
4 10 provided by departmental rule.
- 4 11 g. A kitchen in a private home, if only food that is
4 12 nonpotentially hazardous is prepared for sale or service at a
4 13 function such as a religious or charitable organization's bake
4 14 sale and if the consumer is informed by a clearly visible
4 15 placard at the sales or service location that the food is
4 16 prepared in a kitchen that is not subject to regulation and
4 17 inspection by the regulatory authority or in an area where
4 18 food that is prepared as specified above is sold or offered
4 19 for human consumption.
- 4 20 h. A kitchen in a private home or a bed and breakfast
4 21 home.
- 4 22 i. A private home that receives catered or home-delivered
4 23 food.
- 4 24 j. Child day care facilities and other food establishment
4 25 facilities located in hospitals or health care facilities
4 26 which are subject to inspection by other state agencies or
4 27 divisions of the department.
- 4 28 k. Supply vehicles, vending machine locations, or
4 29 boardinghouses for permanent guests.
- 4 30 l. Establishments exclusively engaged in the processing of
4 31 meat and poultry which are licensed pursuant to section
4 32 189A.3.
- 4 33 m. Premises covered by a current class "A" beer permit as
4 34 provided in chapter 123.

4 35 9. "Food processing plant" means a commercial operation
5 1 that manufactures, packages, labels, or stores food for human
5 2 consumption and does not provide food directly to a consumer.
5 3 "Food processing plant" does not include premises covered by a
5 4 class "A" beer permit as provided in chapter 123.

5 5 10. "Mobile food unit" means a food establishment that is
5 6 readily movable, which either operates up to three consecutive
5 7 days at one location or returns to a home base of operation at
5 8 the end of each day.

5 9 11. "Municipal corporation" means a political subdivision
5 10 of this state.

5 11 12. "Perishable food" means potentially hazardous food.

5 12 13. "Potentially hazardous food" means a food that is
5 13 natural or synthetic and is in a form capable of supporting
5 14 the rapid and progressive growth of infectious or toxigenic
5 15 microorganisms, or the growth and toxin production of
5 16 clostridium botulinum. "Potentially hazardous food" includes
5 17 an animal food that is raw or heat-treated, a food of plant

5 18 origin that is heat-treated or consists of raw seed sprouts,
5 19 cut melons, and garlic and oil mixtures. "Potentially
5 20 hazardous food" does not include the following:
5 21 a. An air-cooled hard-boiled egg with shell intact.
5 22 b. A food with a water activity value of 0.85 or less.
5 23 c. A food with a hydrogen ion concentration (pH) level of
5 24 4.6 or below when measured at twenty-four degrees Centigrade
5 25 or seventy-five degrees Fahrenheit.
5 26 d. A food, in an unopened hermetically sealed container,
5 27 that is commercially processed to achieve and maintain
5 28 commercial sterility under conditions of nonrefrigerated
5 29 storage and distribution.

5 30 14. "Pushcart" means a non-self-propelled vehicle food
5 31 establishment limited to serving nonpotentially hazardous
5 32 foods or commissary-wrapped foods maintained at proper
5 33 temperatures, or limited to the preparation and serving of
5 34 frankfurters.

5 35 15. "Regulatory authority" means the department or a
6 1 municipal corporation that has entered into an agreement with
6 2 the director pursuant to section 137F.3 for authority to
6 3 enforce this chapter in its jurisdiction.

6 4 16. "Temporary food establishment" means a food
6 5 establishment that operates for a period of no more than
6 6 fourteen consecutive days in conjunction with a single event
6 7 or celebration.

6 8 17. "Vending machine" means a food establishment which is
6 9 a self-service device that, upon insertion of a coin, paper
6 10 currency, token, card, or key, dispenses unit servings of food
6 11 in bulk or in packages without the necessity of replenishing
6 12 the device between each vending operation.

6 13 18. "Vending machine location" means the physical site
6 14 where a vending machine is installed and operated, including
6 15 the storage and servicing areas on the premises that are used
6 16 in conjunction with the vending machine.

6 17 Sec. 6. NEW SECTION. 137F.2 ADOPTION BY RULE.

6 18 The director shall adopt the food code with the following
6 19 exceptions:

6 20 1. 3-201.11(B) shall be amended to allow food licensed
6 21 under chapter 137D or food specified under section 137F.1,
6 22 subsection 8, paragraph "f", to be used or offered for sale.

6 23 2. A nonprofit organization which engages in the serving
6 24 of food not more than one day per calendar week nor two or
6 25 more consecutive days is exempt from this chapter.

6 26 3. A food processing plant shall comply with the "Current
6 27 Good Manufacturing Practices in Manufacturing, Processing,
6 28 Packing, or Holding Human Food" as found in the latest version
6 29 of 21 C.F.R., pt. 110, and with rules adopted by the
6 30 department.

6 31 4. A vending machine commissary shall be inspected at
6 32 least once each calendar year.

6 33 5. A vending machine which only dispenses prepackaged food
6 34 that is nonpotentially hazardous is exempt from inspection and
6 35 licensing, except upon receipt of a verified complaint by the
7 1 regulatory authority.

7 2 6. 1-201.10(B)(31); 2-102.11; 2-201.11(D); 2-
7 3 201.13(A)(2)(b); 2-301.13; 3-401.11(B)(2); 3-501.14(B); 4-
7 4 101.17(A); 5-203.11(B); 5-203.15; and 6-301.11(B) shall be
7 5 deleted.

7 6 7. 1-201.10(B)(77)(b) shall be amended to read as follows:
7 7 "(b) 'Single-use articles' includes items such as wax paper,
7 8 butcher paper, plastic wrap, formed aluminum food containers,
7 9 jars, bread wrappers, ketchup bottles, and number 10 cans."

7 10 8. 1-201.10(B)(77) shall be amended by adding the
7 11 following: "(c) The reuse of food grade containers that meet
7 12 the characteristics in section 4-101.11 is permitted."

7 13 9. 2-201.12(B)(2) shall be amended by adding: "Shigella
7 14 spp. and E. Coli 0157:H7" after the word "typhi."

7 15 10. 2-304.11 shall be amended to read: "Food employees
7 16 shall wear clean clothing to prevent contamination."
7 17 11. 2-403.11 shall be amended by adding the following:
7 18 "(C) Food employees handling edible fish in aquariums, or
7 19 shellfish or crustacea in display tanks shall wash their hands
7 20 before handling exposed food, cleaning equipment, utensils,
7 21 and linen, or unwrapped single-service and single-use
7 22 articles."
7 23 12. 3-201.14 shall be amended by striking all language and
7 24 inserting: "Fish may not be received for sale or service
7 25 unless they are commercially and legally caught or harvested,
7 26 or as approved by the regulatory authority."
7 27 13. 3-401.11(D) shall be amended by adding the following:
7 28 "(D) When ordered by the immediate consumer, whole-muscle
7 29 intact beef steaks, which have been seared on both sides, be
7 30 exempted from the minimum cooking requirements."
7 31 14. 3-501.14(A) shall be amended by striking the word
7 32 "Cooked".
7 33 15. 3-501.16(B) shall be amended by adding the following:
7 34 "Existing equipment in establishments licensed as of July 1,
7 35 1997, which cannot maintain a minimum temperature of forty-one
8 1 degrees Fahrenheit or five degrees Celsius shall be allowed to
8 2 maintain potentially hazardous food for up to a total of three
8 3 days at forty-five degrees Fahrenheit or seven degrees Celsius
8 4 and further that existing equipment will be upgraded to meet
8 5 the forty-one degrees Fahrenheit or five degrees Celsius
8 6 requirement or replaced within five years."
8 7 16. 3-501.18(A) shall be amended by adding: "or if
8 8 maintained at forty-five degrees Fahrenheit or seven degrees
8 9 Celsius, shall be discarded after three days for ready-to-eat
8 10 potentially hazardous foods".
8 11 17. 3-603.11 shall be amended by adding: "The following
8 12 standardized language shall be used on the required consumer
8 13 advisory: 'Thoroughly cooking foods of animal origin such as
8 14 beef, eggs, fish, lamb, pork, poultry, or shellfish reduces
8 15 the risk of food-borne illness. Individuals with certain
8 16 health conditions may be at higher risk if these foods are
8 17 consumed raw or undercooked. Consult your physician or public
8 18 health official for further information.'"
8 19 18. 5-302.16 shall be amended by adding: "Such hoses
8 20 shall also fully comply with subsection 4-101.11."
8 21 19. 6-501.111(B)(3) shall be amended by striking the word
8 22 "extermination" and inserting in lieu thereof the words "pest
8 23 control".
8 24 Sec. 7. NEW SECTION. 137F.3 AUTHORITY TO ENFORCE.
8 25 The director shall regulate, license, and inspect food
8 26 establishments and food processing plants and enforce this
8 27 chapter pursuant to rules adopted by the department in
8 28 accordance with chapter 17A. Municipal corporations shall not
8 29 regulate, license, inspect, or collect license fees from food
8 30 establishments and food processing plants, except as provided
8 31 in this section.
8 32 A municipal corporation may enter into an agreement with
8 33 the director to provide that the municipal corporation shall
8 34 license, inspect, and otherwise enforce this chapter within
8 35 its jurisdiction. The director may enter into the agreement
9 1 if the director finds that the municipal corporation has
9 2 adequate resources to perform the required functions.
9 3 However, the department shall license and inspect all food
9 4 processing plants which manufacture, package, or label food
9 5 products. A municipal corporation may license and inspect, as
9 6 authorized by this section, food processing plants whose
9 7 operations are limited to the storage of food products.
9 8 If the director enters into an agreement with a municipal
9 9 corporation as provided by this section, the director shall
9 10 provide that the inspection practices of a municipal
9 11 corporation are spot-checked on a regular basis.

9 12 A municipal corporation that is responsible for enforcing
9 13 this chapter within its jurisdiction pursuant to an agreement
9 14 shall make an annual report to the director providing the
9 15 following information:

9 16 1. The total number of licenses granted or renewed by the
9 17 municipal corporation under this chapter during the year.

9 18 2. The number of licenses granted or renewed by the
9 19 municipal corporation under this chapter during the year in
9 20 each of the following categories:

9 21 a. Food establishments.

9 22 b. Food processing plants.

9 23 c. Mobile food units and pushcarts.

9 24 d. Temporary food establishments.

9 25 e. Vending machines.

9 26 3. The amount of money collected in license fees during
9 27 the year.

9 28 4. Other information the director requests.

9 29 The director shall monitor municipal corporations which
9 30 have entered into an agreement pursuant to this section to
9 31 determine if they are enforcing this chapter within their
9 32 respective jurisdictions. If the director determines that
9 33 this chapter is not enforced by a municipal corporation, the
9 34 director may rescind the agreement after reasonable notice and
9 35 an opportunity for a hearing. If the agreement is rescinded,
10 1 the director shall assume responsibility for enforcement in
10 2 the jurisdiction involved.

10 3 Sec. 8. NEW SECTION. 137F.4 LICENSE REQUIRED.

10 4 A person shall not open or operate a food establishment or
10 5 food processing plant until the appropriate license has been
10 6 obtained from the regulatory authority. Sale of products at
10 7 wholesale to outlets not owned by a commissary owner requires
10 8 a food processing plant license. A license shall expire one
10 9 year from the date of issue. A license is renewable. All
10 10 licenses issued under this chapter that are not renewed by the
10 11 licensee on or before the expiration date shall be subject to
10 12 a penalty of ten percent per month of the license fee if the
10 13 license is renewed at a later date.

10 14 Sec. 9. NEW SECTION. 137F.5 APPLICATION FOR LICENSE.

10 15 An application form prescribed by the department for a
10 16 license under this chapter shall be obtained from the
10 17 department or from a municipal corporation which is a
10 18 regulatory authority. A completed application shall be
10 19 submitted to the appropriate regulatory authority.

10 20 The dominant form of business shall determine the type of
10 21 license for establishments which engage in operations covered
10 22 under both the definition of a food establishment and of a
10 23 food processing plant.

10 24 The regulatory authority where the unit is domiciled shall
10 25 issue a license for a mobile food unit.

10 26 An application for renewal of a license shall be made at
10 27 least thirty days before the expiration of the existing
10 28 license.

10 29 Sec. 10. NEW SECTION. 137F.6 LICENSE FEES.

10 30 The regulatory authority shall collect the following annual
10 31 license fees:

10 32 1. For a mobile food unit or pushcart, seventy-five
10 33 dollars.

10 34 2. For a temporary food establishment per fixed location,
10 35 twenty-five dollars.

11 1 3. For a vending machine, twenty dollars for the first
11 2 machine and five dollars for each additional machine.

11 3 4. For a food establishment or a section of a food
11 4 establishment, which prepares or serves food for individual
11 5 portion service, the annual license fee shall correspond to
11 6 the annual gross sales of the food establishment, as follows:

11 7 a. Annual gross sales of under fifty thousand dollars,
11 8 sixty dollars.

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

11 12 c. Annual gross sales of at least one hundred thousand
11 13 dollars but less than two hundred fifty thousand dollars, two
11 14 hundred dollars.

11 15 d. Annual gross sales of two hundred fifty thousand
11 16 dollars or more, two hundred twenty-five dollars.

11 17 5. For a food establishment or section of a food
11 18 establishment, which sells food or food products to consumer
11 19 customers intended for preparation or consumption off-the-
11 20 premises, the annual license fee shall correspond to the
11 21 annual gross sales of the food establishment, as follows:

11 22 a. Annual gross sales of under ten thousand dollars,
11 23 thirty dollars.

11 24 b. Annual gross sales of at least ten thousand dollars but
11 25 less than two hundred fifty thousand dollars, seventy-five
11 26 dollars.

11 27 c. Annual gross sales of at least two hundred fifty
11 28 thousand dollars but less than five hundred thousand dollars,
11 29 one hundred fifteen dollars.

11 30 d. Annual gross sales of at least five hundred thousand
11 31 dollars but less than seven hundred fifty thousand dollars,
11 32 one hundred fifty dollars.

11 33 e. Annual gross sales of seven hundred fifty thousand
11 34 dollars or more, two hundred twenty-five dollars.

11 35 6. For a food processing plant, the annual license fee
12 1 shall correspond to the annual gross sales of the food
12 2 processing plant, as follows:

12 3 a. Annual gross sales of under fifty thousand dollars,
12 4 fifty dollars.

12 5 b. Annual gross sales of at least fifty thousand dollars
12 6 but less than two hundred fifty thousand dollars, one hundred
12 7 dollars.

12 8 c. Annual gross sales of at least two hundred fifty
12 9 thousand dollars but less than five hundred thousand dollars,
12 10 one hundred fifty dollars.

12 11 d. Annual gross sales of five hundred thousand dollars or
12 12 more, two hundred fifty dollars.

12 13 A food establishment covered by subsections 4 and 5 shall
12 14 be assessed license fees under both subsections.

12 15 Fees collected by the department shall be deposited in the
12 16 general fund of the state. Fees collected by a municipal
12 17 corporation shall be retained by the municipal corporation for
12 18 regulation of food establishments and food processing plants
12 19 licensed under this chapter, except for an administrative fee
12 20 of not more than ten percent of the total license fees
12 21 collected in a fiscal year as provided by rule of the
12 22 department adopted pursuant to chapter 17A. The
12 23 administrative fee for a fiscal year shall be forwarded to the
12 24 department for credit to the general fund of the state no
12 25 later than June 10 of that fiscal year.

12 26 Each vending machine licensed under this chapter shall bear
12 27 a readily visible identification tag or decal provided by the
12 28 licensee, containing the licensee's business address and phone
12 29 number, and a company license number assigned by the
12 30 regulatory authority.

12 31 Sec. 11. NEW SECTION. 137F.7 SUSPENSION OR REVOCATION OF
12 32 LICENSES.

12 33 The regulatory authority may suspend or revoke a license
12 34 issued to a person under this chapter pursuant to rules
12 35 adopted by the department if any of the following occurs:

13 1 1. The person's food establishment or food processing
13 2 plant does not conform to a provision of this chapter or a
13 3 rule adopted pursuant to this chapter.

13 4 2. The person conducts an activity constituting a criminal
13 5 offense in the food establishment or food processing plant and

13 6 is convicted of a serious misdemeanor or a more serious
13 7 offense as a result.

13 8 A licensee may appeal a suspension or revocation in
13 9 accordance with rules adopted by the department.

13 10 Sec. 12. NEW SECTION. 137F.8 FARMERS MARKETS.

13 11 A vendor who offers a product for sale at a farmers market
13 12 shall have the sole responsibility to obtain and maintain any
13 13 license required to sell or distribute the product.

13 14 Sec. 13. NEW SECTION. 137F.9 OPERATION WITHOUT
13 15 INSPECTION PROHIBITED.

13 16 A person shall not open or operate a food establishment or
13 17 food processing plant until an inspection has been made and a
13 18 license has been issued by the regulatory authority.

13 19 Inspections shall be conducted according to standards adopted
13 20 by rule of the department pursuant to chapter 17A.

13 21 A person who opens or operates a food establishment or food
13 22 processing plant without a license is subject to a penalty of
13 23 up to twice the amount of the annual license fee.

13 24 Sec. 14. NEW SECTION. 137F.10 REGULAR INSPECTIONS.

13 25 The appropriate regulatory authority shall provide for the
13 26 inspection of each food establishment and food processing
13 27 plant in this state in accordance with this chapter and with
13 28 rules adopted pursuant to this chapter in accordance with
13 29 chapter 17A. A regulatory authority may enter a food
13 30 establishment or food processing plant at any reasonable hour
13 31 to conduct an inspection. The manager or person in charge of
13 32 the food establishment or food processing plant shall afford
13 33 free access to every part of the premises and render all aid
13 34 and assistance necessary to enable the regulatory authority to
13 35 make a thorough and complete inspection.

14 1 Sec. 15. NEW SECTION. 137F.11 INSPECTION UPON COMPLAINT.

14 2 Upon receipt of a complaint by a customer of a food
14 3 establishment or food processing plant stating facts
14 4 indicating the premises are in an unsanitary condition, the
14 5 regulatory authority may conduct an inspection.

14 6 Sec. 16. NEW SECTION. 137F.12 PLUMBING.

14 7 A food establishment or food processing plant shall have an
14 8 adequately designed plumbing system conforming to at least the
14 9 minimum requirements of the state plumbing code, or local
14 10 plumbing code, whichever is more stringent. The plumbing
14 11 system shall have a connection to a municipal water and sewer
14 12 system or to a benefited water district or sanitary district
14 13 if such facilities are available.

14 14 Sec. 17. NEW SECTION. 137F.13 WATER AND WASTE TREATMENT.

14 15 If a food establishment or food processing plant is served
14 16 by privately owned water or waste treatment facilities, those
14 17 facilities shall meet the technical requirements of the local
14 18 board of health and the department of natural resources.

14 19 Sec. 18. NEW SECTION. 137F.14 TOILETS AND LAVATORIES.

14 20 A food establishment or food processing plant shall provide
14 21 toilet and lavatory facilities in accordance with rules
14 22 adopted by the department pursuant to this chapter in
14 23 accordance with chapter 17A.

14 24 Sec. 19. NEW SECTION. 137F.15 FIRE SAFETY.

14 25 A violation of a fire safety rule adopted pursuant to
14 26 section 100.35 and applicable to food establishments or food
14 27 processing plants which occurs on the premises of a food
14 28 establishment or food processing plant is a violation of this
14 29 chapter.

14 30 Sec. 20. NEW SECTION. 137F.16 CONFLICTS WITH STATE
14 31 BUILDING CODE.

14 32 Provisions of this chapter in conflict with the state
14 33 building code shall not apply where the state building code
14 34 has been adopted or when the state building code applies
14 35 throughout the state.

15 1 Sec. 21. NEW SECTION. 137F.17 PENALTY.

15 2 A person who violates this chapter or rules adopted

15 3 pursuant to this chapter commits a simple misdemeanor.

15 4 Sec. 22. NEW SECTION. 137F.18 INJUNCTION.

15 5 A person opening or operating a food establishment or food
15 6 processing plant in violation of this chapter may be enjoined
15 7 from further operation of the establishment or plant. If an
15 8 imminent health hazard exists, the establishment or plant must
15 9 cease operation. Operation shall not be resumed until
15 10 authorized by the regulatory authority.

15 11 Sec. 23. NEW SECTION. 137F.19 DUTY OF COUNTY OR CITY
15 12 ATTORNEY.

15 13 The county attorney in each county or city attorney in each
15 14 city shall assist in the enforcement of this chapter.

15 15 Sec. 24. Section 172A.6, unnumbered paragraph 1, Code
15 16 1997, is amended to read as follows:

15 17 The license and financial responsibility provisions of this
15 18 chapter shall not apply to any person who is licensed

~~by the~~

15 19

~~secretary~~

- as provided in chapter

~~137A~~

- 137E, 171, or 172 and

15 20 who purchases livestock for slaughter valued at less than an
15 21 average daily value of two thousand five hundred dollars
15 22 during the preceding twelve months or such part thereof as the
15 23 person was purchasing livestock. Said licensees are made
15 24 subject to this chapter as to the regulatory and penal
15 25 provisions hereof. All other provisions of this chapter shall
15 26 apply to said dealers or brokers.

15 27 Sec. 25. Section 189A.3, unnumbered paragraph 1, Code
15 28 1997, is amended to read as follows:

15 29 No person shall operate an establishment other than a
15 30 grocery store or food

~~service~~

- establishment as defined in
15 31 section

~~137B.2~~

- 137F.1 without first obtaining a license from

15 32 the department. The license fee for each establishment per
15 33 year or any part of a year shall be:

15 34 Sec. 26. Section 331.382, subsection 5, Code 1997, is
15 35 amended to read as follows:

16 1 5. The board shall not regulate, license, inspect, or
16 2 collect license fees from food

~~service~~

- establishments or food

16 3 and beverage vending machines except as provided in chapter
16 4

~~137B~~

- 137E or from hotels except as provided in chapter 137C

~~or~~

16 5

~~for food and beverage vending machines except as provided in~~

16 6

~~section 137E.3~~

16 7 Sec. 27. Section [331.756](#), subsection 32, Code 1997, is
16 8 amended to read as follows:
16 9 32. Assist the department of inspections and appeals in
16 10 the enforcement of

~~the food establishment laws,~~

- the Iowa food

16 11

~~service sanitation~~

- code

- and the Iowa hotel sanitation code as
16 12 provided in sections

~~137A.26, 137B.21,~~

- [137F.19](#) and [137C.30](#).

16 13 Sec. 28. Section [453A.36](#), subsection 6, Code 1997, is
16 14 amended to read as follows:

16 15 6. Any sales of cigarettes or tobacco products made
16 16 through a cigarette vending machine are subject to rules and
16 17 penalties relative to retail sales of cigarettes and tobacco
16 18 products provided for in this chapter. No cigarettes shall be
16 19 sold through any cigarette vending machine unless the
16 20 cigarettes have been properly stamped or metered as provided
16 21 by this division, and in case of violation of this provision,
16 22 the permit of the dealer authorizing retail sales of
16 23 cigarettes shall be canceled. Payment of the license fee as
16 24 provided in section [453A.13](#) authorizes a cigarette vendor to
16 25 sell cigarettes or tobacco products through vending machines,
16 26 provided that the following conditions are met: the machines
16 27 are located in places where the machines are under the
16 28 supervision of a person of legal age who is responsible for
16 29 prevention of purchase by minors from the machines; the
16 30 machines are equipped with a lock-out device under the control
16 31 of a person of legal age who shall directly regulate the sale
16 32 of items through the machines, and which shall include a
16 33 mechanism to prevent the machines from functioning if the
16 34 power source for the lock-out device fails or if the lock-out
16 35 device is disabled, and a mechanism to ensure that only one
17 1 pack of cigarettes or one tobacco product is dispensed at a
17 2 time; and the location where the machines are placed is
17 3 covered by a local retail permit. However, a lock-out device
17 4 is not required for machines operated in the following
17 5 locations, if the machines are not to be placed in a doorway
17 6 or other area readily accessible to minors: a commercial
17 7 establishment holding a class "C" liquor license or a class
17 8 "B" beer permit under chapter 123, if the establishment is not
17 9 also licensed as a food

~~service~~

- establishment under chapter

17 10

~~137B~~

- [137E](#); a private facility not open to the public; or a
17 11 workplace not open to the public. This section does not
17 12 require a retail licensee to buy a cigarette vendor's permit
17 13 if the retail licensee is in fact the owner of the cigarette
17 14 vending machines and the machines are operated in the location
17 15 described in the retail permit.

17 16 Sec. 29. Chapters [137A](#), [137B](#), and [137E](#), Code 1997, are
17 17 repealed.

17 18 Sec. 30. EFFECTIVE DATE AND TRANSITION PROVISIONS.

17 19 1. This Act takes effect January 1, 1998.

17 20 2. A license issued pursuant to chapter 137A, 137B, or
17 21 137E before the effective date of this Act shall remain valid
17 22 and be deemed the same as a license issued pursuant to chapter
17 23 137F for the remaining term of the license.

17 24 3. An establishment with licenses under both chapters 137A
17 25 and 137B on the effective date of this Act shall not be issued
17 26 a license under chapter 137F until both licenses have expired.

17 27 EXPLANATION

17 28 This bill repeals Code chapters 137A, 137B, and 137E
17 29 effective January 1, 1998. The new chapter which replaces
17 30 these three chapters reflects the adoption on the federal
17 31 level of the 1995 model food code, and replaces the definition
17 32 of "bed and breakfast home" in the food code with the current
17 33 definition contained in Code section 137B.2. The separate
17 34 chapters governing food establishments, the food service
17 35 sanitation code, and food and beverage vending machines are
18 1 combined into one chapter. The bill deletes provisions that
18 2 allow the department to amend the food code through the
18 3 administrative rule process.

18 4 The bill provides for a revised license fee structure for
18 5 fees charged for licensing vending machines and food service
18 6 establishments, as well as an administrative fee of up to 10
18 7 percent of the total license fees collected in a fiscal year
18 8 which shall be charged to municipalities that regulate food
18 9 establishments. The bill amends other Code sections
18 10 containing internal references to the repealed chapters.

18 11 The bill also establishes a transition between licenses
18 12 issued under the repealed chapters and licenses issued under
18 13 chapter 137F.

18 14 LSB 1893HC 77

18 15 rn/jj/8