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SENATE FILE 389

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Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the licensing and regulation of food
2 establishments and food processing plants, establishing fees,
3 and providing an effective date.

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

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SF 389
WAYS & MEANS

1 Section 1. Section 137D.1, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 0A. "Certified food protection manager"
4 means the person in charge of a home food establishment who
5 has been certified by an approved food protection
6 certification program. The department shall approve eligible
7 food protection certification programs. The department shall
8 maintain a list of approved programs and post on the
9 department's website.

10 NEW SUBSECTION. 3A. "Person in charge" means the
11 individual present at a home food establishment who is
12 responsible for the operation of the establishment at the time
13 of inspection.

14 Sec. 2. Section 137D.2, subsection 1, Code 2001, is
15 amended to read as follows:

16 1. A person shall not open or operate a home food
17 establishment until a license has been obtained from the
18 department of inspections and appeals. The department shall
19 collect a fee of ~~twenty-five~~ fifty dollars for a license. If
20 the person in charge for an establishment under this chapter
21 is a certified food protection manager, the license fee shall
22 be thirty-five dollars. After collection, the fees shall be
23 deposited in the general fund of the state. A license shall
24 expire one year from date of issue. A license is renewable.

25 Sec. 3. Section 137F.1, Code 2001, is amended by adding
26 the following new subsections:

27 NEW SUBSECTION. 1A. "Certified food protection manager"
28 means the person in charge of a food establishment who has
29 been certified by an approved food protection certification
30 program. The department shall approve eligible food
31 protection certification programs. The department shall
32 maintain a list of approved programs and post the list on the
33 department's website.

34 NEW SUBSECTION. 9A. "Hazard analysis and critical control
35 point" means the written document that delineates step-by-step

1 procedures to evaluate and monitor the flow of food through a
2 food establishment from receiving to service. The system
3 enables operators to identify the foods and procedures that
4 are most likely to cause illness, establish procedures to
5 reduce risks of foodborne illness outbreaks, and monitor food
6 safety.

7 NEW SUBSECTION. 12A. "Person in charge" means the
8 individual present at a food establishment who is responsible
9 for the operation of the establishment at the time of
10 inspection.

11 Sec. 4. Section 137F.1, subsections 7 and 14, Code 2001,
12 are amended by striking the subsections.

13 Sec. 5. Section 137F.3, subsection 2, paragraph c, Code
14 2001, is amended to read as follows:

15 c. Mobile food units ~~and-pushcarts~~.

16 Sec. 6. Section 137F.4, Code 2001, is amended by striking
17 the section and inserting in lieu thereof the following:

18 137F.4 LICENSE REQUIRED -- APPLICATION -- FEE.

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

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

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

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

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

10 Sec. 7. Section 137F.6, Code 2001, is amended by striking
11 the section and inserting in lieu thereof the following:

12 137F.6 LICENSE FEES.

13 The regulatory authority shall collect the following annual
14 license fees:

15 1. For a mobile food unit, fifty dollars. If the person
16 in charge of a mobile food unit is a certified food protection
17 manager, the license fee shall be thirty-five dollars.

18 2. For a temporary food establishment, per fixed location,
19 fifty dollars. If the person in charge of a temporary food
20 establishment is a certified food protection manager, the
21 license fee shall be thirty-five dollars.

22 3. For a vending machine, forty dollars for the first
23 machine and ten dollars for each additional machine.

24 4. For a food establishment which prepares or serves food
25 for individual portion service intended for consumption on the
26 premises, the annual license fee shall correspond to the
27 annual gross food and beverage sales of the food establishment
28 and shall be determined based additionally on whether the
29 person in charge is a certified food protection manager or
30 whether the food establishment has a certified, validated, and
31 implemented hazard analysis and critical control point plan,
32 as follows:

33		FEE WITH
34	FEE WITH	HAZARD
35	CERTIFIED	ANALYSIS

1			FOOD	AND CRITICAL
2			PROTECTION	CONTROL
3	GROSS SALES	FEE	MANAGER	POINT
4	50,000 or less	\$115	\$ 90	\$ 60
5	50,001-100,000	225	180	115
6	100,001-250,000	340	270	170
7	250,001-500,000	450	360	225
8	Over 500,000	675	540	340

9 5. For a food establishment which sells food or food
 10 products to consumers intended for preparation or consumption
 11 off the premises, the annual license fee shall correspond to
 12 the annual gross food and beverage sales of the food
 13 establishment and shall be determined based additionally on
 14 whether the person in charge is a certified food protection
 15 manager or whether the food establishment has a certified,
 16 validated, and implemented hazard analysis and critical
 17 control point plan, as follows:

18				FEE WITH
19			FEE WITH	HAZARD
20			CERTIFIED	ANALYSIS
21			FOOD	AND CRITICAL
22			PROTECTION	CONTROL
23	GROSS SALES	FEE	MANAGER	POINT
24	250,000 or less	\$150	\$120	\$ 75
25	250,001-750,000	300	240	150
26	Over 750,000	500	400	250

27 6. For a food establishment qualifying under both
 28 subsections 4 and 5 of this section, with an assessed finished
 29 square footage of twenty-five thousand or less, the annual
 30 license fee shall correspond to the total annual gross food
 31 and beverage sales of both categories of food establishments
 32 and shall be determined based additionally on whether the
 33 person in charge is a certified food protection manager or
 34 whether the food establishment has a certified, validated, and
 35 implemented hazard analysis and critical control point plan,

1 as follows:

2				
3				FEE WITH
4			FEE WITH	HAZARD
5			CERTIFIED	ANALYSIS
6			FOOD	AND CRITICAL
7			PROTECTION	CONTROL
8	GROSS SALES	FEE	MANAGER	POINT
9	250,000 or less	\$250	\$200	\$125
10	250,001-750,000	375	300	190
11	750,001-2,000,000	500	400	250
12	Over 2,000,000	625	500	315

13 7. For a food establishment qualifying under both
 14 subsections 4 and 5 of this section with an assessed finished
 15 square footage of more than twenty-five thousand and with a
 16 single food service operation under subsection 4, the annual
 17 license fee shall correspond to the total annual gross food
 18 and beverage sales of both categories of food establishments
 19 and shall be determined based additionally on whether the
 20 person in charge is a certified food protection manager or
 21 whether the food establishment has a certified, validated, and
 22 implemented hazard analysis and critical control point plan,
 23 as follows:

24				FEE WITH
25			FEE WITH	HAZARD
26			CERTIFIED	ANALYSIS
27			FOOD	AND CRITICAL
28			PROTECTION	CONTROL
29	GROSS SALES	FEE	MANAGER	POINT
30	750,000 or less	\$625	\$500	\$315
31	750,001-2,000,000	780	625	390
32	Over 2,000,000	1,000	800	500

33 8. For a food establishment qualifying under both
 34 subsections 4 and 5 of this section with an assessed finished
 35 square footage of more than twenty-five thousand and with two

1 or more separate and distinct food service operations pursuant
2 to subsection 4, the annual license fee shall correspond to
3 the total annual gross food and beverage sales of both
4 categories of food establishments and shall be determined
5 based additionally on whether the person in charge is a
6 certified food protection manager or whether the food
7 establishment has a certified, validated, and implemented
8 hazard analysis and critical control point plan, as follows:

	FEE WITH	FEE WITH	FEE WITH
	CERTIFIED	FOOD	HAZARD
	PROTECTION	MANAGER	ANALYSIS
	AND CRITICAL	POINT	CONTROL
GROSS SALES	FEE		
750,000 or less	\$740	\$590	\$370
750,001-2,000,000	1,005	805	500
Over 2,000,000	1,340	1,070	670

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

- 21 a. Annual gross sales of under fifty thousand dollars,
22 sixty dollars.
- 23 b. Annual gross sales of at least fifty thousand dollars
24 but less than two hundred fifty thousand dollars, one hundred
25 twenty-five dollars.
- 26 c. Annual gross sales of at least two hundred fifty
27 thousand dollars but less than five hundred thousand dollars,
28 one hundred seventy-five dollars.
- 29 d. Annual gross sales of five hundred thousand dollars or
30 more, three hundred dollars.

31 10. New establishments shall pay a plan review fee of one
32 hundred dollars.

33 Fees collected by the department shall be deposited in the
34 general fund of the state. Fees collected by a municipal
35 corporation shall be retained by the municipal corporation for

1 regulation of food establishments and food processing plants
2 licensed under chapter 137F.

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

8 Sec. 8. EMERGENCY RULES. The department of inspections
9 and appeals may adopt emergency rules under section 17A.4,
10 subsection 2, and section 17A.5, subsection 2, paragraph "b",
11 to implement the provisions of this Act and the rules shall be
12 effective immediately upon filing unless a later date is
13 specified in the rules. Any rules adopted in accordance with
14 this section shall also be published as a notice of intended
15 action as provided in section 17A.4.

16 Sec. 9. Sections 137F.2 and 137F.5, Code 2001, are
17 repealed.

18 Sec. 10. Section 137F.6, as amended by this Act, is
19 repealed effective July 1, 2005. By January 10, 2005, the
20 department of inspections and appeals shall submit a
21 recommendation to the general assembly for a license fee
22 structure for chapter 137F to be effective July 1, 2005.

23 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
24 immediate importance, takes effect upon enactment.

25 EXPLANATION

26 This bill relates to the licensing and regulation of food
27 establishments and food processing plants. The bill deletes
28 Code section 137F.2, which provides for the adoption of the
29 1997 edition of the United States food and drug administration
30 food code. The bill provides for the consolidation of
31 provisions which had previously addressed licensure
32 requirements and application forms in separate Code sections.
33 The bill additionally revises the current license fee schedule
34 contained in Code section 137F.6. The bill provides
35 definitions for a "certified food protection manager", a

1 "hazard analysis and critical control point", and a "person in
2 charge". The bill provides the department of inspections and
3 appeals with emergency rulemaking authority to implement the
4 bill's provisions. The bill provides an effective date for
5 repealing Code section 137F.6 and requires the department of
6 inspections and appeals to submit a recommendation to the
7 general assembly for a license fee structure.

8 The bill takes effect upon enactment.

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