

Senate Study Bill 3254

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CO=CHAIRPERSONS BOLKCOM
AND ZIEMAN)

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

A BILL FOR

1 An Act relating to manufactured or mobile home regulation, and
2 including fee, penalty, and effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5932SC 81
5 eg/cf/24

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1 1 DIVISION IV
1 2 MANUFACTURED AND MOBILE HOME REGULATION
1 3 Section 1. NEW SECTION. 103A.51 DEFINITIONS.
1 4 As used in this division, unless the context otherwise
1 5 requires:
1 6 1. "Ground anchoring system" means any device or
1 7 combination of devices used to securely anchor a manufactured
1 8 or mobile home to the ground.
1 9 2. "Ground support system" means any device or combination
1 10 of devices placed beneath a manufactured or mobile home and
1 11 used to provide support.
1 12 3. "Home" means a manufactured home, mobile home, or
1 13 modular home.
1 14 4. "Manufactured home" means a factory-built structure
1 15 built under the authority of 42 U.S.C. } 5403, that is
1 16 required by federal law to display a seal required by the
1 17 United States department of housing and urban development, and
1 18 was constructed on or after June 15, 1976.
1 19 5. "Manufactured or mobile home distributor" means a
1 20 person who sells or distributes manufactured or mobile homes
1 21 to manufactured or mobile home retailers.
1 22 6. "Manufactured or mobile home manufacturer" means a
1 23 person engaged in the business of fabricating or assembling
1 24 manufactured or mobile homes.
1 25 7. "Manufactured or mobile home retailer" means a person
1 26 who, for a commission or other thing of value, sells,
1 27 exchanges, or offers or attempts to negotiate a sale or
1 28 exchange of an interest in a home or who is engaged wholly or
1 29 in part in the business of selling homes, whether or not the
1 30 homes are owned by the retailer. "Manufactured or mobile home
1 31 retailer" does not include any of the following:
1 32 a. A receiver, trustee, administrator, executor, guardian,
1 33 attorney, or other person appointed by or acting under the
1 34 judgment or order of a court to transfer an interest in a
1 35 home.
2 1 b. A person transferring a home registered in the person's
2 2 name and used for personal, family, or household purposes, if
2 3 the transfer is an occasional sale and is not part of the
2 4 business of the transferor.
2 5 c. A person who transfers an interest in a home only as an
2 6 incident to engaging in the business of financing new or used
2 7 homes.
2 8 d. A person who exclusively sells modular homes.
2 9 8. "Mobile home" means a structure, transportable in one
2 10 or more sections, which exceeds eight feet in width and
2 11 thirty-two feet in length, and which is built on a permanent
2 12 chassis and designed to be used as a dwelling with or without
2 13 a permanent foundation when connected to one or more
2 14 utilities. A "mobile home" is not built to a mandatory
2 15 building code, contains no state or federal seals, and was

2 16 built before June 15, 1976.

2 17 9. "Modular home" means a factory-built structure which is
2 18 manufactured to be used as a place of human habitation, is
2 19 constructed to comply with the Iowa state building code for
2 20 modular factory-built structures, as adopted pursuant to
2 21 section 103A.7, and displays a seal issued by the
2 22 commissioner.

2 23 10. "New home" means a home that has not been sold at
2 24 retail.

2 25 11. "Permanent site" means any lot or parcel of land on
2 26 which a manufactured or mobile home used as a dwelling or
2 27 place of business is located for ninety consecutive days,
2 28 except a construction site when the manufactured or mobile
2 29 home is used by a commercial contractor as a construction
2 30 office or storage room.

2 31 12. "Preowned home" means a home that has been previously
2 32 sold at retail.

2 33 13. "Retailer's inventory" means homes offered for sale at
2 34 the retailer's licensed address or at any mobile home park or
2 35 land-leased community so long as the title of the home is in
3 1 the retailer's name and the home is not being occupied.

3 2 14. "Sell at retail" means to sell a home to a person who
3 3 will devote it to a consumer use.

3 4 15. "Tiedown system" means a ground support system and a
3 5 ground anchoring system used in concert to provide anchoring
3 6 and support for a manufactured or mobile home.

3 7 Sec. 2. NEW SECTION. 103A.52 MANUFACTURED OR MOBILE HOME
3 8 RETAILER LICENSE == PROCEDURE.

3 9 1. LICENSE APPLICATION. A manufactured or mobile home
3 10 retailer shall file with the commissioner an application for
3 11 license as a manufactured or mobile home retailer as the
3 12 commissioner may prescribe.

3 13 2. LICENSE FEE. The license fee for a manufactured or
3 14 mobile home retailer is an annual fee of one hundred dollars.
3 15 If the application is denied, the commissioner shall refund
3 16 the fee.

3 17 3. SURETY BOND. Before the issuance of a manufactured or
3 18 mobile home retailer's license, an applicant for a license
3 19 shall file with the commissioner a surety bond executed by the
3 20 applicant as principal and executed by a corporate surety
3 21 company, licensed and qualified to do business within this
3 22 state, which bond shall run to the state, be in the amount of
3 23 fifty thousand dollars, and be conditioned upon the faithful
3 24 compliance by the applicant as a retailer with all of the
3 25 statutes of this state regulating the business of the retailer
3 26 and indemnifying any person dealing or transacting business
3 27 with the retailer in connection with a manufactured or mobile
3 28 home from a loss or damage occasioned by the failure of the
3 29 retailer to comply with this division, including but not
3 30 limited to the furnishing of a proper and valid document of
3 31 title to the manufactured or mobile home involved in the
3 32 transaction.

3 33 4. PERMITS FOR FAIRS, SHOWS, AND EXHIBITIONS. Licensed
3 34 manufactured or mobile home retailers, in addition to selling
3 35 homes at their principal place of business and lots, may, upon
4 1 receipt of a temporary permit approved by the commissioner,
4 2 display and offer new manufactured homes for sale and
4 3 negotiate sales of new manufactured homes at fairs, shows, and
4 4 exhibitions. Application for temporary permits shall be made
4 5 upon forms provided by the commissioner and shall be
4 6 accompanied by a ten dollar permit fee. Temporary permits
4 7 shall be issued for a period not to exceed fourteen days.

4 8 5. MANUFACTURED OR MOBILE HOME HOOKUPS. A licensed
4 9 manufactured or mobile home retailer or an employee of a
4 10 licensed manufactured or mobile home retailer may perform
4 11 water, gas, electrical, and other utility service connections
4 12 in a manufactured or mobile home space, or within ten feet of
4 13 such space, located in a manufactured home community or mobile
4 14 home park. The licensed retailer or an employee of the
4 15 retailer may install a tiedown system on a manufactured or
4 16 mobile home located in a manufactured home community or mobile
4 17 home park. The licensed retailer or an employee of the
4 18 retailer is not required to obtain any additional state or
4 19 local authorization, permit, or license to perform utility
4 20 service connections or to install a manufactured or mobile
4 21 home pursuant to this subsection. However, the utility
4 22 service connections are subject to inspection and approval by
4 23 the local building department and the manufactured or mobile
4 24 home retailer shall pay the inspection fee, if any.

4 25 Sec. 3. NEW SECTION. 103A.53 LICENSE APPLICATION AND
4 26 FEES.

4 27 Upon application and payment of a one hundred dollar fee, a
4 28 person may be licensed as a manufacturer or distributor of
4 29 manufactured or mobile homes. The application shall be in the
4 30 form and shall contain information as the commissioner
4 31 prescribes. The license shall be granted or refused within
4 32 thirty days after application. The license expires, unless
4 33 sooner revoked or suspended by the commissioner, on December
4 34 31 of the calendar year for which the license was granted. A
4 35 licensee shall have the month of December of the calendar year
5 1 for which the license was granted and the following month of
5 2 January to renew the license. A person who fails to renew a
5 3 license by the end of this time period and desires to hold a
5 4 license shall file a new license application and pay the
5 5 required fee.

5 6 Sec. 4. NEW SECTION. 103A.54 FEES.

5 7 Notwithstanding section 103A.23, all fees collected by the
5 8 commissioner pursuant to this division shall be credited to
5 9 the general fund of the state and are appropriated to the
5 10 commissioner for the administration of the licensing program
5 11 and for the administration of the certification program for
5 12 manufactured or mobile home installers, including the
5 13 employment of personnel for the enforcement and administration
5 14 of such programs.

5 15 Sec. 5. NEW SECTION. 103A.55 REVOCATION, SUSPENSION, AND
5 16 DENIAL OF LICENSE.

5 17 The commissioner may revoke, suspend, or refuse the license
5 18 of a manufactured or mobile home retailer, manufacturer or
5 19 mobile home manufacturer, or manufacturer or mobile home
5 20 distributor, as applicable, if the commissioner finds that the
5 21 manufactured or mobile home retailer, manufacturer, or
5 22 distributor is guilty of any of the following acts or
5 23 offenses:

5 24 1. Fraud in procuring a license.

5 25 2. Knowingly making misleading, deceptive, untrue, or
5 26 fraudulent representations in the business of a manufactured
5 27 or mobile home retailer, manufacturer, or distributor or
5 28 engaging in unethical conduct or practice harmful or
5 29 detrimental to the public.

5 30 3. Conviction of a felony related to the business of a
5 31 manufactured or mobile home retailer, manufacturer, or
5 32 distributor. A copy of the record of conviction or plea of
5 33 guilty shall be sufficient evidence for the purposes of this
5 34 section.

5 35 4. Failing upon the sale or transfer of a manufactured or
6 1 mobile home to deliver to the purchaser or transferee of the
6 2 manufactured or mobile home sold or transferred, a
6 3 manufacturer's or importer's certificate, or a certificate of
6 4 title duly assigned, as provided in chapter 321.

6 5 5. Failing upon the purchasing or otherwise acquiring of a
6 6 manufactured or mobile home to obtain a manufacturer's or
6 7 importer's certificate, a new certificate of title, or a
6 8 certificate of title duly assigned as provided in chapter 321.

6 9 6. Failing to apply for and obtain from a county treasurer
6 10 a certificate of title for a used manufactured or mobile home,
6 11 titled in Iowa, acquired by the retailer within thirty days
6 12 from the date of acquisition, as required under section
6 13 321.45, subsection 4.

6 14 In accordance with chapters 10A and 17A, each person whose
6 15 license or application is revoked, suspended, or refused shall
6 16 be provided an opportunity for a hearing before the department
6 17 of inspections and appeals.

6 18 Sec. 6. NEW SECTION. 103A.56 RULES.

6 19 The commissioner shall prescribe rules under chapter 17A
6 20 for the administration and enforcement of this division. The
6 21 commissioner shall prescribe forms to be used in connection
6 22 with the licensing of persons under this division.

6 23 Sec. 7. NEW SECTION. 103A.57 UNLAWFUL PRACTICE ==
6 24 CRIMINAL PENALTY.

6 25 It is unlawful for a person to engage in business as a
6 26 manufactured or mobile home retailer, manufacturer or mobile
6 27 home manufacturer, or manufacturer or mobile home distributor
6 28 in this state without first acquiring and maintaining a
6 29 license in accordance with this division. A person convicted
6 30 of violating this section is guilty of a serious misdemeanor.

6 31 Sec. 8. NEW SECTION. 103A.58 MANUFACTURED HOME, MOBILE
6 32 HOME, AND MODULAR HOME RETAIL INSTALLMENT CONTRACT == FINANCE
6 33 CHARGE.

6 34 1. A retail installment contract or agreement for the sale
6 35 of a manufactured home, mobile home, or modular home may
7 1 include a finance charge not in excess of an amount equivalent
7 2 to one and three-fourths percent per month simple interest on

7 3 the declining balance of the amount financed.

7 4 2. For purposes of this section, "amount financed" means
7 5 the same as defined in section 537.1301.

7 6 3. The limitations contained in this section do not apply
7 7 in a transaction referred to in section 535.2, subsection 2.
7 8 With respect to a consumer credit sale, as defined in section
7 9 537.1301, the limitations contained in this section supersede
7 10 conflicting provisions of chapter 537, article 2, part 2.

7 11 Sec. 9. NEW SECTION. 103A.59 MANUFACTURED OR MOBILE HOME
7 12 INSTALLERS CERTIFICATION == VIOLATION == CIVIL PENALTY.

7 13 1. A person who installs a manufactured or mobile home for
7 14 another person shall be certified in accordance with rules
7 15 adopted by the commissioner pursuant to chapter 17A. The
7 16 commissioner may assess a fee sufficient to recover the costs
7 17 of administering the certification of manufactured or mobile
7 18 home installers. The commissioner may suspend or revoke the
7 19 certification of a manufactured or mobile home installer for
7 20 failure to perform installation of a manufactured or mobile
7 21 home pursuant to certification standards as provided by rules
7 22 of the commissioner.

7 23 2. If a provision of this chapter or a rule adopted
7 24 pursuant to this chapter relating to the manufacture or
7 25 installation of a manufactured or mobile home is violated, the
7 26 commissioner may assess a civil penalty not to exceed one
7 27 thousand dollars for each offense. Each violation involving a
7 28 separate manufactured or mobile home, or a separate failure or
7 29 refusal to allow an act to be performed or to perform an act
7 30 as required by this chapter or a rule adopted pursuant to this
7 31 chapter, constitutes a separate offense. However, the maximum
7 32 amount of civil penalties which may be assessed for any series
7 33 of violations occurring within one year from the date of the
7 34 first violation shall not exceed one million dollars.

7 35 Sec. 10. NEW SECTION. 103A.60 APPROVED TIEDOWN SYSTEM ==
8 1 PROVIDED AT SALE == INSTALLATION.

8 2 A manufactured or mobile home retailer shall provide an
8 3 approved tiedown system. The purchaser shall install or have
8 4 installed such system within one hundred fifty days of
8 5 locating the manufactured or mobile home on a permanent site.

8 6 Sec. 11. NEW SECTION. 103A.61 INSTALLER COMPLIANCE AND
8 7 CERTIFICATION.

8 8 A person who installs a tiedown system shall comply with
8 9 the minimum standards for such systems, and shall provide the
8 10 owner of the manufactured or mobile home on which installation
8 11 is made and the commissioner with a certification of approved
8 12 system installation. Such certification shall be in proper
8 13 form as established by the commissioner.

8 14 Sec. 12. NEW SECTION. 103A.62 LISTING AND FORM OF
8 15 CERTIFICATION OF APPROVED SYSTEMS PROVIDED.

8 16 The commissioner shall provide, upon request, a list of
8 17 approved tiedown systems and instructions for the completion
8 18 of proper certification of approved system installation.

8 19 Sec. 13. NEW SECTION. 103A.63 COMPLIANCE.

8 20 When it appears that a retailer, purchaser, or other person
8 21 is in noncompliance with the provisions of sections 103A.60
8 22 through 103A.62, the commissioner shall prescribe a period of
8 23 time not to exceed one hundred twenty days within which
8 24 compliance must be achieved and the commissioner shall so
8 25 notify the retailer, purchaser, or other person.

8 26 Sec. 14. Section 103A.3, subsections 10, 11, 21, and 26,
8 27 Code 2005, are amended by striking the subsections.

8 28 Sec. 15. Section 103A.3, subsection 16, Code 2005, is
8 29 amended to read as follows:

8 30 16. "Manufactured home", "mobile home", and "modular home"
8 31 mean the same as defined in section ~~435.1~~ 103A.51.

8 32 Sec. 16. Section 321.45, subsection 4, Code 2005, is
8 33 amended to read as follows:

8 34 4. After acquiring a used mobile home or manufactured home
8 35 to be titled in Iowa, a manufactured or mobile home retailer,
9 1 as defined in section ~~322B.2~~ 103A.51 shall within thirty days
9 2 apply for and obtain from the county treasurer of the
9 3 retailer's county of residence a new certificate of title for
9 4 the mobile home or manufactured home. In the event that there
9 5 is a prior lien or encumbrance to be released, as required by
9 6 section 321.50, subsection 5, the thirty-day time period in
9 7 this subsection does not begin to run until the lien or
9 8 encumbrance is released.

9 9 Sec. 17. Section 321.57, subsection 5, Code 2005, is
9 10 amended to read as follows:

9 11 5. Manufactured or mobile home retailers licensed under
9 12 chapter ~~322B~~ 103A may transport and deliver mobile homes or
9 13 manufactured homes in their inventory upon the highways of

9 14 this state with a special plate displayed on the mobile home
9 15 or manufactured home as provided in sections 321.58 to 321.62.
9 16 Sec. 18. Section 321.58, Code 2005, is amended to read as
9 17 follows:

9 18 321.58 APPLICATION.

9 19 All dealers, transporters, new motor vehicle wholesalers
9 20 licensed under chapter 322, and manufactured or mobile home
9 21 retailers licensed under chapter ~~322B~~ 103A, upon payment of a
9 22 fee of seventy dollars for two years, one hundred forty
9 23 dollars for four years, or two hundred ten dollars for six
9 24 years, may make application to the department upon the
9 25 appropriate form for a certificate containing a general
9 26 distinguishing number and for one or more special plates as
9 27 appropriate to various types of vehicles subject to
9 28 registration. The applicant shall also submit proof of the
9 29 applicant's status as a bona fide transporter, new motor
9 30 vehicle wholesaler licensed under chapter 322, manufactured or
9 31 mobile home retailer licensed under chapter ~~322B~~ 103A, or
9 32 dealer, as reasonably required by the department. Dealers in
9 33 new vehicles shall furnish satisfactory evidence of a valid
9 34 franchise with the manufacturer of the vehicles authorizing
9 35 the dealership.

10 1 Sec. 19. Section 322B.3, subsection 5, Code 2005, is
10 2 amended to read as follows:

10 3 5. Manufactured or mobile home hookups. A manufactured or
10 4 mobile home retailer or an employee of a manufactured or
10 5 mobile home retailer may perform water, gas, electrical, and
10 6 other utility service connections in a manufactured or mobile
10 7 home space, or within ten feet of such space, located in a
10 8 manufactured home community or mobile home park, and the
10 9 retailer or an employee of the retailer may install a tiedown
10 10 system on a manufactured or mobile home located in a
10 11 manufactured home community or mobile home park. The licensed
10 12 retailer or an employee of the retailer is not required to
10 13 obtain any additional state or local authorization, permit, or
10 14 license to perform utility service connections or to install a
10 15 manufactured or mobile home pursuant to this subsection.

10 16 However, the utility service connections are subject to
10 17 inspection and approval by local building code officials and
10 18 the manufactured or mobile home retailer shall pay the
10 19 inspection fee, if any.

10 20 Sec. 20. Section 523H.1, subsection 3, paragraph c, Code
10 21 2005, is amended to read as follows:

10 22 c. "Franchise" also does not include any contract under
10 23 which a petroleum retailer or petroleum distributor is
10 24 authorized or permitted to occupy leased marketing premises,
10 25 which premises are to be employed in connection with the sale,
10 26 consignment, or distribution of motor fuel under a trademark
10 27 which is owned or controlled by a refiner which is regulated
10 28 by the federal Petroleum Marketing Practices Act, 15 U.S.C. }
10 29 2801 et seq. The term "refiner" means any person engaged in
10 30 the refining of crude oil to produce motor fuel, and includes
10 31 any affiliate of such person. "Franchise" also does not
10 32 include a contract entered into by any person regulated under
10 33 chapter 103A, division IV, or chapter 123, 322, 322A, ~~322B,~~
10 34 ~~322C,~~ 322D, 322F, 522B, or 543B, or a contract establishing a
10 35 franchise relationship with respect to the sale of
11 1 construction equipment, lawn or garden equipment, or real
11 2 estate.

11 3 Sec. 21. Section 537A.10, subsection 1, paragraph c,
11 4 subparagraph (3), Code 2005, is amended to read as follows:

11 5 (3) "Franchise" also does not include any contract under
11 6 which a petroleum retailer or petroleum distributor is
11 7 authorized or permitted to occupy leased marketing premises,
11 8 which premises are to be employed in connection with the sale,
11 9 consignment, or distribution of motor fuel under a trademark
11 10 which is owned or controlled by a refiner which is regulated
11 11 by the federal Petroleum Marketing Practices Act, 15 U.S.C. }
11 12 2801 et seq. The term "refiner" means any person engaged in
11 13 the refining of crude oil to produce motor fuel, and includes
11 14 any affiliate of such person. "Franchise" also does not
11 15 include a contract entered into by any person regulated under
11 16 chapter 103A, division IV, or chapter 123, 322, 322A, ~~322B,~~
11 17 ~~322C,~~ 322D, 322F, 522B, or 543B, or a contract establishing a
11 18 franchise relationship with respect to the sale of
11 19 construction equipment, lawn or garden equipment, or real
11 20 estate.

11 21 Sec. 22. Section 103A.26 and sections 103A.30 through
11 22 103A.33, Code 2005, are repealed.

11 23 Sec. 23. Chapter 322B, Code 2005, is repealed.

11 24 Sec. 24. TRANSITION. The state department of

11 25 transportation shall refund any portion of a license fee paid
11 26 pursuant to chapter 322B prior to the effective date of this
11 27 Act that remains unexpired as of January 1, 2007, to the
11 28 licensee that paid the fee.
11 29 Sec. 25. EFFECTIVE DATE. The section of this Act amending
11 30 section 322B.3, subsection 5, being deemed of immediate
11 31 importance, takes effect upon enactment. The remainder of
11 32 this Act takes effect on January 1, 2007.

11 33 EXPLANATION

11 34 Currently, the state department of transportation
11 35 administers the manufactured or mobile home retailer licensing
12 1 Act in Code chapter 322B. This bill transfers administration
12 2 of the licensing to the state building code commissioner in
12 3 Code chapter 103A.

12 4 The bill provides that a manufactured or mobile home
12 5 retailer shall pay an annual license fee of \$100. Currently,
12 6 the license fee is \$70 for a two-year license, \$140 for a
12 7 four-year license, or \$210 for a six-year license.

12 8 To be licensed as a manufacturer or distributor of
12 9 manufactured or mobile homes, the fee under the bill is \$100.
12 10 Currently, the license fee is \$35.

12 11 The bill provides that the licensing fees collected by the
12 12 commissioner, including the \$10 temporary permit fees for
12 13 fairs, shows, and exhibitions, be credited to the general fund
12 14 of the state and are appropriated to the commissioner for the
12 15 administration of the licensing program and for the
12 16 administration of the certification program for manufactured
12 17 or mobile home installers, including the employment of
12 18 personnel for the enforcement and administration of such
12 19 programs.

12 20 The certification program for manufactured or mobile home
12 21 installers is currently administered by the state building
12 22 code commissioner pursuant to Code section 103A.26. This
12 23 provision is renumbered as new Code section 103A.59 to
12 24 consolidate the manufactured or mobile home provisions in Code
12 25 chapter 103A under one division. The existing regulations for
12 26 tiedown systems in Code sections 103A.30 through 103A.33 are
12 27 also renumbered in the bill as Code sections 103A.60 through
12 28 103A.63.

12 29 The bill includes conforming amendments and a transition
12 30 provision. The state department of transportation must refund
12 31 any portion of the retailer licensing fee that remains
12 32 unexpired as of January 1, 2007, to the licensed manufactured
12 33 or mobile home retailer that paid the fee.

12 34 The provision of the bill amending Code section 322B.3,
12 35 subsection 5, to clarify language regarding utility service
13 1 connections for the installation of a manufactured or mobile
13 2 home takes effect upon enactment and the remainder of the bill
13 3 takes effect on January 1, 2007.

13 4 LSB 5932SC 81

13 5 eg:nh/cf/24