

House File 872 - Introduced

HOUSE FILE _____
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 103)

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

A BILL FOR

1 An Act relating to the licensing and inspection of hotels, home
2 food establishments, and food establishments and processing
3 plants, providing and increasing fees, making penalties
4 applicable, making an appropriation, and providing an
5 effective date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1378HV 82
8 nh/je/5

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1 1 Section 1. Section 137C.6, Code 2007, is amended to read
1 2 as follows:
1 3 137C.6 AUTHORITY TO ENFORCE.
1 4 1. The director shall regulate, license, and inspect
1 5 hotels and enforce the Iowa hotel sanitation code in Iowa.
1 6 Municipal corporations shall not regulate, license, inspect,
1 7 or collect license fees from hotels except as provided for in
1 8 the Iowa hotel sanitation code.
1 9 2. If a municipal corporation wants its local board of
1 10 health to license, inspect, and otherwise enforce the Iowa
1 11 hotel sanitation code within its jurisdiction, the municipal
1 12 corporation may enter into an agreement to do so with the
1 13 director. The director may enter into the agreement if the
1 14 director finds that the local board of health has adequate
1 15 resources to perform the required functions. A municipal
1 16 corporation may only enter into an agreement to enforce the
1 17 Iowa hotel sanitation code if it also agrees to enforce the
1 18 ~~Iowa food code rules setting minimum standards to protect~~
1 19 ~~consumers from foodborne illness adopted pursuant to section~~
1 20 ~~137F.3~~ 137F.2.
1 21 3. A local board of health that is responsible for
1 22 enforcing the Iowa hotel sanitation code within its
1 23 jurisdiction pursuant to an agreement, shall make an annual
1 24 report to the director providing the following information:
1 25 ~~1- a.~~ a. The total number of hotel licenses granted or
1 26 renewed during the year.
1 27 ~~2- b.~~ b. The number of hotel licenses granted or renewed
1 28 during the year broken down into the following categories:
1 29 ~~a- (1)~~ (1) Hotels containing fifteen guest rooms or less.
1 30 ~~b- (2)~~ (2) Hotels containing more than fifteen but less than
1 31 thirty-one guest rooms.
1 32 ~~c- (3)~~ (3) Hotels containing more than thirty but less than
1 33 seventy-six guest rooms.
1 34 ~~d- (4)~~ (4) Hotels containing more than seventy-five but less
1 35 than one hundred fifty guest rooms.
2 1 ~~e- (5)~~ (5) Hotels containing one hundred fifty or more guest
2 2 rooms.
2 3 ~~3- c.~~ c. The amount of money collected in license fees
2 4 during the year.
2 5 ~~4- d.~~ d. Other information the director requests.
2 6 4. The director shall monitor local boards of health to
2 7 determine if they are enforcing the Iowa hotel sanitation code
2 8 within their respective jurisdictions. If the director
2 9 determines that the Iowa hotel sanitation code is enforced by
2 10 a local board of health, such enforcement shall be accepted in
2 11 lieu of enforcement by the department in that jurisdiction.
2 12 If the director determines that the Iowa hotel sanitation code
2 13 is not enforced by a local board of health, the director may
2 14 rescind the agreement after reasonable notice and an
2 15 opportunity for a hearing. If the agreement is rescinded, the

2 16 director shall assume responsibility for enforcement in the
2 17 jurisdiction involved.
2 18 Sec. 2. Section 137C.9, Code 2007, is amended to read as
2 19 follows:
2 20 137C.9 LICENSE FEES.
2 21 1. Either the department or the municipal corporation
2 22 shall collect the following annual license fees through June
2 23 30, 2008:
2 24 1- a. For a hotel containing fifteen guest rooms or less,
2 25 ~~twenty~~ thirty dollars.
2 26 2- b. For a hotel containing more than fifteen but less
2 27 than thirty-one guest rooms, ~~thirty~~ forty=five dollars.
2 28 3- c. For a hotel containing more than thirty but less
2 29 than seventy-six guest rooms, ~~forty~~ sixty dollars.
2 30 4- d. For a hotel containing more than seventy-five but
2 31 less than one hundred fifty guest rooms, ~~fifty~~ seventy=five
2 32 dollars.
2 33 5- e. For a hotel containing one hundred fifty or more
2 34 guest rooms, ~~seventy=five~~ one hundred ten dollars.
2 35 2. Either the department or the municipal corporation
3 1 shall collect the following annual license fees beginning July
3 2 1, 2008:
3 3 a. For a hotel containing fifteen guest rooms or less,
3 4 forty dollars.
3 5 b. For a hotel containing more than fifteen but less than
3 6 thirty=one guest rooms, sixty dollars.
3 7 c. For a hotel containing more than thirty but less than
3 8 seventy=six guest rooms, eighty dollars.
3 9 d. For a hotel containing more than seventy=five but less
3 10 than one hundred fifty guest rooms, one hundred dollars.
3 11 e. For a hotel containing one hundred fifty or more guest
3 12 rooms, one hundred fifty dollars.
3 13 3. Fees collected by the department shall be deposited in
3 14 the general fund of the state. Fees collected by a municipal
3 15 corporation shall be retained by it and for its use.
3 16 Sec. 3. Section 137D.2, subsection 1, Code 2007, is
3 17 amended to read as follows:
3 18 1. A person shall not open or operate a home food
3 19 establishment until a license has been obtained from the
3 20 department of inspections and appeals. The department shall
3 21 collect a fee of ~~twenty=five~~ thirty=five dollars for a license
3 22 through June 30, 2008, and a fee of fifty dollars for a
3 23 license beginning July 1, 2008. After collection, the fees
3 24 shall be deposited in the general fund of the state. A
3 25 license shall expire one year from date of issue. A license
3 26 is renewable.
3 27 Sec. 4. Section 137F.1, subsection 7, Code 2007, is
3 28 amended by striking the subsection.
3 29 Sec. 5. Section 137F.1, subsection 8, unnumbered paragraph
3 30 1, Code 2007, is amended to read as follows:
3 31 "Food establishment" means an operation that stores,
3 32 prepares, packages, serves, vends, or otherwise provides food
3 33 for human consumption and includes a food service operation in
3 34 a salvage or distressed food operation, school, summer camp,
3 35 residential service substance abuse treatment facility,
4 1 halfway house substance abuse treatment facility, correctional
4 2 facility operated by the department of corrections, the state
4 3 training school, or the Iowa juvenile home. "Food
4 4 establishment" does not include the following:
4 5 Sec. 6. Section 137F.2, Code 2007, is amended by striking
4 6 the section and inserting in lieu thereof the following:
4 7 137F.2 ADOPTION BY RULE.
4 8 The department shall, in accordance with chapter 17A, adopt
4 9 rules setting minimum standards for entities covered under
4 10 this chapter to protect consumers from foodborne illness. In
4 11 so doing, the department may adopt by reference, with or
4 12 without amendment, the United States food and drug
4 13 administration food code, which shall be specified by title
4 14 and edition, date of publication, or similar information. The
4 15 rules and standards shall be formulated in consultation with
4 16 municipal corporations under agreement with the department,
4 17 affected state agencies, and industry, professional, and
4 18 consumer groups.
4 19 Sec. 7. Section 137F.3, Code 2007, is amended to read as
4 20 follows:
4 21 137F.3 AUTHORITY TO ENFORCE.
4 22 1. The director shall regulate, license, and inspect food
4 23 establishments and food processing plants and enforce this
4 24 chapter pursuant to rules adopted by the department in
4 25 accordance with chapter 17A. Municipal corporations shall not
4 26 regulate, license, inspect, or collect license fees from food

4 27 establishments and food processing plants, except as provided
4 28 in this section.

4 29 2. A municipal corporation may enter into an agreement
4 30 with the director to provide that the municipal corporation
4 31 shall license, inspect, and otherwise enforce this chapter
4 32 within its jurisdiction. The director may enter into the
4 33 agreement if the director finds that the municipal corporation
4 34 has adequate resources to perform the required functions. A

4 35 municipal corporation may only enter into an agreement to
5 1 enforce the ~~Iowa food code~~ rules setting minimum standards to
5 2 protect consumers from foodborne illness adopted pursuant to
5 3 ~~this~~ section 137F.2 if it also agrees to enforce the Iowa
5 4 hotel sanitation code pursuant to section 137C.6. However,
5 5 the department shall license and inspect all food processing
5 6 plants which manufacture, package, or label food products. A
5 7 municipal corporation may license and inspect, as authorized
5 8 by this section, food processing plants whose operations are
5 9 limited to the storage of food products.

5 10 3. If the director enters into an agreement with a
5 11 municipal corporation as provided by this section, the
5 12 director shall provide that the inspection practices of a
5 13 municipal corporation are spot-checked on a regular basis.

5 14 4. A municipal corporation that is responsible for
5 15 enforcing this chapter within its jurisdiction pursuant to an
5 16 agreement shall make an annual report to the director
5 17 providing the following information:

5 18 1- a. The total number of licenses granted or renewed by
5 19 the municipal corporation under this chapter during the year.

5 20 2- b. The number of licenses granted or renewed by the
5 21 municipal corporation under this chapter during the year in
5 22 each of the following categories:

- 5 23 a- (1) Food establishments.
- 5 24 b- (2) Food processing plants.
- 5 25 c- (3) Mobile food units and pushcarts.
- 5 26 d- (4) Temporary food establishments.
- 5 27 e- (5) Vending machines.

5 28 3- c. The amount of money collected in license fees
5 29 during the year.

5 30 4- d. Other information the director requests.

5 31 5. The director shall monitor municipal corporations which
5 32 have entered into an agreement pursuant to this section to
5 33 determine if they are enforcing this chapter within their
5 34 respective jurisdictions. If the director determines that
5 35 this chapter is not enforced by a municipal corporation, the
6 1 director may rescind the agreement after reasonable notice and
6 2 an opportunity for a hearing. If the agreement is rescinded,
6 3 the director shall assume responsibility for enforcement in
6 4 the jurisdiction involved.

6 5 Sec. 8. Section 137F.3A, Code 2007, is amended to read as
6 6 follows:

6 7 137F.3A MUNICIPAL CORPORATION INSPECTIONS == CONTINGENT
6 8 APPROPRIATION.

6 9 1. If a municipal corporation operating pursuant to a
6 10 chapter 28E agreement with the department of inspections and
6 11 appeals to enforce this chapter and chapters 137C and 137D
6 12 either fails to renew the agreement effective after July 1,
6 13 2005, ~~but before July 1, 2007,~~ or discontinues ~~prior to July~~
6 14 ~~1, 2007,~~ enforcement activities in one or more jurisdictions
6 15 during the agreement time frame, or the department of
6 16 inspections and appeals cancels an agreement ~~prior to July 1,~~
6 17 ~~2007,~~ due to noncompliance with the terms of the agreement,
6 18 the department of inspections and appeals may employ
6 19 additional full-time equivalent positions ~~for the fiscal years~~
6 20 ~~ending prior to July 1, 2007,~~ to enforce the provisions of the
6 21 chapters, with the approval of the department of management.
6 22 Before approval is given, the director of the department of
6 23 management shall determine that the expenses exceed the funds
6 24 budgeted by the general assembly for food inspections to the
6 25 department of inspections and appeals. The department of
6 26 inspections and appeals may hire no more than one full-time
6 27 equivalent position for each six hundred inspections required
6 28 pursuant to this chapter and chapters 137C and 137D.

6 29 2. Notwithstanding chapter 137D, and sections 137C.9 and
6 30 137F.6, if the conditions described in this section are met,
6 31 fees imposed pursuant to that chapter and those sections shall
6 32 be retained by and are appropriated to the department of
6 33 inspections and appeals ~~for the each fiscal years ending prior~~
6 34 ~~to July 1, 2007,~~ year to provide for salaries, support,
6 35 maintenance, and miscellaneous purposes associated with the
7 1 additional inspections.

7 2 3. ~~This section is repealed July 1, 2007.~~

7 3 Sec. 9. Section 137F.6, Code 2007, is amended to read as
7 4 follows:

7 5 137F.6 LICENSE == REINSPECTION == PLAN REVIEW FEES.

7 6 1. The regulatory authority shall collect the following
7 7 annual license fees through June 30, 2008:

7 8 1- a. For a mobile food unit or pushcart, ~~twenty~~ sixty
7 9 dollars.

7 10 2- b. For a temporary food establishment per fixed
7 11 location, ~~twenty-five~~ thirty-five dollars.

7 12 3- c. For a vending machine, twenty dollars for the first
7 13 machine and five dollars for each additional machine.

7 14 4- d. For a food establishment which prepares or serves
7 15 food for individual portion service intended for consumption
7 16 on-the-premises, the annual license fee shall correspond to
7 17 the annual gross food and beverage sales of the food
7 18 establishment, as follows:

7 19 a- (1) Annual gross sales of under fifty thousand
7 20 dollars, ~~fifty~~ seventy-five dollars.

7 21 b- (2) Annual gross sales of at least fifty thousand
7 22 dollars but less than one hundred thousand dollars,
7 23 ~~eighty-five~~ one hundred twenty-five dollars.

7 24 c- (3) Annual gross sales of at least one hundred
7 25 thousand dollars but less than two hundred fifty thousand
7 26 dollars, ~~one hundred seventy-five~~ two hundred sixty dollars.

7 27 d- (4) Annual gross sales of two hundred fifty thousand
7 28 dollars but less than five hundred thousand dollars, ~~two~~ three
7 29 hundred dollars.

7 30 e- (5) Annual gross sales of five hundred thousand
7 31 dollars or more, ~~two hundred twenty-five~~ three hundred
7 32 thirty-five dollars.

7 33 5- e. For a food establishment which sells food or food
7 34 products to consumer customers intended for preparation or
7 35 consumption off-the-premises, the annual license fee shall
8 1 correspond to the annual gross food and beverage sales of the
8 2 food establishment, as follows:

8 3 a- (1) Annual gross sales of under ten thousand dollars,
8 4 ~~thirty~~ forty-five dollars.

8 5 b- (2) Annual gross sales of at least ten thousand
8 6 dollars but less than two hundred fifty thousand dollars,
8 7 ~~seventy-five~~ one hundred ten dollars.

8 8 c- (3) Annual gross sales of at least two hundred fifty
8 9 thousand dollars but less than five hundred thousand dollars,
8 10 ~~one hundred fifteen~~ one hundred seventy dollars.

8 11 d- (4) Annual gross sales of at least five hundred
8 12 thousand dollars but less than seven hundred fifty thousand
8 13 dollars, ~~one hundred fifty~~ two hundred twenty-five dollars.

8 14 e- (5) Annual gross sales of seven hundred fifty thousand
8 15 dollars or more, ~~two hundred twenty-five~~ three hundred
8 16 thirty-five dollars.

8 17 6- f. For a food processing plant, the annual license fee
8 18 shall correspond to the annual gross food and beverage sales
8 19 of the food processing plant, as follows:

8 20 a- (1) Annual gross sales of under fifty thousand
8 21 dollars, ~~fifty~~ seventy-five dollars.

8 22 b- (2) Annual gross sales of at least fifty thousand
8 23 dollars but less than two hundred fifty thousand dollars, one
8 24 hundred fifty dollars.

8 25 c- (3) Annual gross sales of at least two hundred fifty
8 26 thousand dollars but less than five hundred thousand dollars,
8 27 ~~one hundred fifty~~ two hundred twenty-five dollars.

8 28 d- (4) Annual gross sales of five hundred thousand
8 29 dollars or more, ~~two hundred fifty~~ three hundred seventy-five
8 30 dollars.

8 31 7- g. For a farmers market where potentially hazardous
8 32 food is sold or distributed, one seasonal license fee of one
8 33 hundred dollars for each vendor on a countywide basis.

8 34 h. A food establishment covered by ~~subsections 4 and 5~~
8 35 paragraphs "d" and "e" shall be assessed license fees not to
9 1 exceed seventy-five percent of the total fees applicable under
9 2 both ~~subsections~~ paragraphs.

9 3 i. Upon transfer of ownership of an existing food
9 4 establishment or food processing plant subject to a license
9 5 fee under paragraph "d", "e", or "f", the new owner shall pay
9 6 the last license fee amount paid by the previous owner for the
9 7 first year of licensure. In subsequent years, the licensee
9 8 shall pay the fee specified for the licensee's annual gross
9 9 sales.

9 10 j. A new applicant subject to a license fee under
9 11 paragraph "d", "e", or "f" shall pay the license fee based on
9 12 projected gross sales under each of the applicable paragraphs
9 13 for the first year of licensure. In subsequent years, the

9 14 licensee shall pay the fee specified for the licensee's annual
9 15 gross sales.

9 16 k. For a food establishment or food processing plant that
9 17 is being remodeled or newly constructed and that is subject to
9 18 a license fee under paragraph "d", "e", or "f", the applicant
9 19 shall pay, in addition to any other fees assessed under this
9 20 chapter, a plan review fee of up to two hundred fifty dollars,
9 21 as determined by the regulatory authority.

9 22 l. For a food establishment or food processing plant that
9 23 is being remodeled and that is subject to a license fee under
9 24 paragraph "d", "e", or "f", the licensee shall pay, in
9 25 addition to any other fees assessed under this chapter, a plan
9 26 review fee of up to two hundred fifty dollars, as determined
9 27 by the regulatory authority.

9 28 m. If a routine inspection or a complaint investigation of
9 29 a food establishment or food processing plant subject to a
9 30 license fee under paragraph "d", "e", or "f" reveals the
9 31 presence of one or more critical violations and requires one
9 32 or more physical reinspections, a reinspection fee equal to
9 33 fifty dollars shall be assessed for each reinspection.
9 34 Failure to pay the reinspection fee shall subject a food
9 35 establishment or food processing plant to suspension or
10 1 revocation of the food establishment's or food processing
10 2 plant's license pursuant to section 137F.7 and to the penalty
10 3 provisions of section 137F.17.

10 4 2. The regulatory authority shall collect the following
10 5 annual license fees beginning July 1, 2008:

10 6 a. For a mobile food unit or pushcart, one hundred
10 7 dollars.

10 8 b. For a temporary food establishment per fixed location,
10 9 fifty dollars.

10 10 c. For a vending machine, twenty dollars for the first
10 11 machine and five dollars for each additional machine.

10 12 d. For a food establishment which prepares or serves food
10 13 for individual portion service intended for consumption
10 14 on-the-premises, the annual license fee shall correspond to
10 15 the annual gross food and beverage sales of the food
10 16 establishment, as follows:

10 17 (1) Annual gross sales of under fifty thousand dollars,
10 18 one hundred dollars.

10 19 (2) Annual gross sales of at least fifty thousand dollars
10 20 but less than one hundred thousand dollars, one hundred
10 21 seventy dollars.

10 22 (3) Annual gross sales of at least one hundred thousand
10 23 dollars but less than two hundred fifty thousand dollars,
10 24 three hundred fifty dollars.

10 25 (4) Annual gross sales of two hundred fifty thousand
10 26 dollars but less than five hundred thousand dollars, four
10 27 hundred dollars.

10 28 (5) Annual gross sales of five hundred thousand dollars or
10 29 more, four hundred fifty dollars.

10 30 e. For a food establishment which sells food or food
10 31 products to consumer customers intended for preparation or
10 32 consumption off-the-premises, the annual license fee shall
10 33 correspond to the annual gross food and beverage sales of the
10 34 food establishment, as follows:

10 35 (1) Annual gross sales of under ten thousand dollars,
11 1 sixty dollars.

11 2 (2) Annual gross sales of at least ten thousand dollars
11 3 but less than two hundred fifty thousand dollars, one hundred
11 4 fifty dollars.

11 5 (3) Annual gross sales of at least two hundred fifty
11 6 thousand dollars but less than five hundred thousand dollars,
11 7 two hundred thirty dollars.

11 8 (4) Annual gross sales of at least five hundred thousand
11 9 dollars but less than seven hundred fifty thousand dollars,
11 10 three hundred dollars.

11 11 (5) Annual gross sales of seven hundred fifty thousand
11 12 dollars or more, four hundred fifty dollars.

11 13 f. For a food processing plant, the annual license fee
11 14 shall correspond to the annual gross food and beverage sales
11 15 of the food processing plant, as follows:

11 16 (1) Annual gross sales of under fifty thousand dollars,
11 17 one hundred dollars.

11 18 (2) Annual gross sales of at least fifty thousand dollars
11 19 but less than two hundred fifty thousand dollars, two hundred
11 20 dollars.

11 21 (3) Annual gross sales of at least two hundred fifty
11 22 thousand dollars but less than five hundred thousand dollars,
11 23 three hundred dollars.

11 24 (4) Annual gross sales of five hundred thousand dollars or

11 25 more, five hundred dollars.
11 26 g. For a farmers market where potentially hazardous food
11 27 is sold or distributed, one seasonal license fee of one
11 28 hundred dollars for each vendor on a countywide basis.
11 29 h. A food establishment covered by paragraphs "d" and "e"
11 30 shall be assessed license fees not to exceed seventy-five
11 31 percent of the total fees applicable under both paragraphs.
11 32 i. Upon transfer of ownership of an existing food
11 33 establishment or food processing plant subject to a license
11 34 fee under paragraph "d", "e", or "f", the new owner shall pay
11 35 the last license fee amount paid by the previous owner for the
12 1 first year of licensure. In subsequent years, the licensee
12 2 shall pay the fee specified for the licensee's annual gross
12 3 sales.
12 4 j. A new applicant subject to a license fee under
12 5 paragraph "d", "e", or "f" shall pay the license fee based on
12 6 projected gross sales under each of the applicable paragraphs
12 7 for the first year of licensure. In subsequent years, the
12 8 licensee shall pay the fee specified for the licensee's annual
12 9 gross sales.
12 10 k. For a food establishment or food processing plant that
12 11 is being remodeled or newly constructed and that is subject to
12 12 a license fee under paragraph "d", "e", or "f", the applicant
12 13 shall pay, in addition to any other fees assessed under this
12 14 chapter, a plan review fee of up to two hundred fifty dollars,
12 15 as determined by the regulatory authority.
12 16 l. For a food establishment or food processing plant that
12 17 is being remodeled and that is subject to a license fee under
12 18 paragraph "d", "e", or "f", the licensee shall pay, in
12 19 addition to any other fees assessed under this chapter, a plan
12 20 review fee of up to two hundred fifty dollars, as determined
12 21 by the regulatory authority.
12 22 m. If a routine inspection or a complaint investigation of
12 23 a food establishment or food processing plant subject to a
12 24 license fee under paragraph "d", "e", or "f" reveals the
12 25 presence of one or more critical violations and requires one
12 26 or more physical reinspections, a reinspection fee equal to
12 27 fifty dollars shall be assessed for each reinspection.
12 28 Failure to pay the reinspection fee shall subject a food
12 29 establishment or food processing plant to suspension or
12 30 revocation of the food establishment's or food processing
12 31 plant's license pursuant to section 137F.7 and to the penalty
12 32 provisions of section 137F.17.
12 33 3. All fees imposed pursuant to this chapter shall be
12 34 increased annually in an amount equal to the greater of five
12 35 dollars, or the consumer price index for all urban consumers
13 1 for the immediately preceding calendar year, as published in
13 2 the federal register by the United States department of
13 3 labor's bureau of labor statistics and rounded to the nearest
13 4 increment of five dollars.
13 5 4. Fees collected by the department shall be deposited in
13 6 the general fund of the state. Fees collected by a municipal
13 7 corporation shall be retained by the municipal corporation for
13 8 regulation of food establishments and food processing plants
13 9 licensed under this chapter.
13 10 5. Each vending machine licensed under this chapter shall
13 11 bear a readily visible identification tag or decal provided by
13 12 the licensee, containing the licensee's business address and
13 13 phone number, and a company license number assigned by the
13 14 regulatory authority.
13 15 Sec. 10. Section 331.756, subsection 32, Code 2007, is
13 16 amended to read as follows:
13 17 32. Assist the department of inspections and appeals in
13 18 the enforcement of the ~~Iowa food code~~ rules setting minimum
13 19 standards to protect consumers from foodborne illness adopted
13 20 pursuant to section 137F.2 and the Iowa hotel sanitation code,
13 21 as provided in sections 137F.19 and 137C.30.
13 22 Sec. 11. FOOD CODE APPLICABILITY == TEMPORARY PROVISIONS.
13 23 Pending the adoption of rules pursuant to section 137F.2, as
13 24 amended by this Act, the 1997 edition of the United States
13 25 food and drug administration food code, with the amendments or
13 26 exceptions thereto in effect prior to the effective date of
13 27 this Act, shall continue in effect.
13 28 Sec. 12. EFFECTIVE DATE. The section of this Act amending
13 29 section 137F.3A, being deemed of immediate importance, takes
13 30 effect upon enactment.
13 31 EXPLANATION
13 32 This bill makes changes regarding the licensing and
13 33 inspection of hotels, home food establishments, and food
13 34 establishments.
13 35 The bill provides for phased-in increases in the license

14 1 fees imposed on hotels pursuant to Code section 137C.9, for
14 2 home food establishments pursuant to Code section 137D.2, and
14 3 for food establishments and food processing plants pursuant to
14 4 Code section 137F.6. Except in the case of a mobile food unit
14 5 or pushcart licensed pursuant to Code section 137F.6,
14 6 subsection 1, whose fee is increased from \$20 to \$100, all
14 7 other fees are doubled in amount over the two-year period.

14 8 The bill provides for the deletion of a specific reference
14 9 to the adoption of the "food code" in Code section 137F.2,
14 10 statutory amendments or exceptions to the food code, providing
14 11 instead for the adoption of rules setting minimum standards to
14 12 protect consumers from foodborne illness. The bill provides
14 13 that the rules may incorporate by reference, with or without
14 14 amendment, the United States food and drug administration food
14 15 code, which if incorporated shall be specified by title and
14 16 edition, date of publication, or similar information, and that
14 17 the rules and standards shall be formulated in consultation
14 18 with municipal corporations under agreement with the
14 19 department, affected state agencies, and industry,
14 20 professional, and consumer groups. Conforming changes are
14 21 made to other Code provisions currently referencing the "food
14 22 code" as referred to in Code chapter 137F. The bill specifies
14 23 that until the rules are adopted, the 1997 edition of the
14 24 United States food and drug administration food code, with the
14 25 amendments or exceptions in effect prior to the effective date
14 26 of the bill, shall continue to apply.

14 27 The bill includes in the definition of a "food
14 28 establishment" in Code section 137F.1 a salvage or distressed
14 29 food operation.

14 30 Code section 137F.3A, enacted in 2006, is amended to
14 31 provide that the department of inspections and appeals may
14 32 retain fees imposed on hotels, home food establishments, and
14 33 on certain food establishments, each fiscal year and use the
14 34 fees retained for costs associated with having the department
14 35 conduct food inspections in jurisdictions where the applicable
15 1 municipal corporation fails to conduct the inspections on or
15 2 after July 1, 2005. Current law allows the department to
15 3 retain and use such fees between July 1, 2005, and July 1,
15 4 2007. The bill eliminates the future repeal of the provision
15 5 on July 1, 2007. This provision of the bill takes effect upon
15 6 enactment.

15 7 The bill provides for new categories of fees for
15 8 reinspection and plan review relating to food establishments
15 9 under Code chapter 137F. The bill provides that if a transfer
15 10 of ownership of a certain type of existing food establishment
15 11 or food processing plant licensed under Code section 137F.6
15 12 occurs, which would include a food establishment which
15 13 prepares or serves food for individual portion service
15 14 intended for consumption on-the-premises, a food establishment
15 15 which sells food or food products to consumer customers
15 16 intended for preparation or consumption off-the-premises, or a
15 17 food processing plant, the new owner shall pay the highest
15 18 license fee for the first year of licensure, and in subsequent
15 19 years, the fee specified for their annual gross sales.

15 20 The bill additionally provides that an applicant for
15 21 certain new licenses under Code section 137F.6 shall pay the
15 22 license fee based on projected gross sales or the previous
15 23 owner's license fee, whichever is applicable to the applicant,
15 24 for the first year of licensure and, in subsequent years, the
15 25 fee specified for their annual gross sales.

15 26 Further, for certain food establishments and food
15 27 processing plants to be licensed under Code section 137F.6
15 28 that are being newly constructed or remodeled, or for an
15 29 existing licensee undergoing remodeling, the bill provides
15 30 that the applicant or licensee shall pay, in addition to any
15 31 other fees assessed, a plan review fee of up to \$250, as
15 32 determined by the regulatory authority.

15 33 Additionally, the bill provides that if a routine
15 34 inspection or a complaint investigation of certain food
15 35 establishments and food processing plants licensed under Code
16 1 section 137F.6 reveals the presence of one or more critical
16 2 violations and requires one or more physical reinspections, a
16 3 reinspection fee equal to \$50 shall be assessed for each
16 4 reinspection. The bill specifies that failure to pay the
16 5 reinspection fee shall subject a licensee to suspension or
16 6 revocation of the license pursuant to Code section 137F.7, and
16 7 the penalty provisions of Code section 137F.17.

16 8 The bill provides that all fees imposed pursuant to Code
16 9 chapter 137F shall be increased annually in an amount equal to
16 10 the greater of \$5, or the consumer price index for all urban
16 11 consumers for the immediately preceding calendar year, as

16 12 published in the federal register by the United States
16 13 department of labor's bureau of labor statistics and rounded
16 14 to the nearest increment of \$5.
16 15 LSB 1378HV 82
16 16 nh:rj/je/5