

Senate File 184 - Introduced

SENATE FILE _____
BY DOTZLER

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

A BILL FOR

1 An Act relating to hotel, food establishment, and food processing
2 plant licensing and inspection, providing fees, making
3 penalties applicable, making an appropriation, and providing
4 an effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 2412SS 82
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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 137F.1, subsection 7, Code 2007, is

2 19 amended by striking the subsection.

2 20 Sec. 3. Section 137F.1, subsection 8, unnumbered paragraph
2 21 1, Code 2007, is amended to read as follows:

2 22 "Food establishment" means an operation that stores,
2 23 prepares, packages, serves, vends, or otherwise provides food
2 24 for human consumption and includes a food service operation in
2 25 a salvage or distressed food operation, school, summer camp,
2 26 residential service substance abuse treatment facility,
2 27 halfway house substance abuse treatment facility, correctional
2 28 facility operated by the department of corrections, the state
2 29 training school, or the Iowa juvenile home. "Food
2 30 establishment" does not include the following:

2 31 Sec. 4. Section 137F.2, Code 2007, is amended by striking
2 32 the section and inserting in lieu thereof the following:

2 33 137F.2 ADOPTION BY RULE.

2 34 The department shall, in accordance with chapter 17A, adopt
2 35 rules setting minimum standards for entities covered under
3 1 this chapter to protect consumers from foodborne illness. In
3 2 so doing, the department may adopt by reference, with or
3 3 without amendment, the United States food and drug
3 4 administration food code, which shall be specified by title
3 5 and edition, date of publication, or similar information. The
3 6 rules and standards shall be formulated in consultation with
3 7 municipal corporations under agreement with the department,
3 8 affected state agencies, and industry, professional, and
3 9 consumer groups.

3 10 Sec. 5. Section 137F.3, Code 2007, is amended to read as
3 11 follows:

3 12 137F.3 AUTHORITY TO ENFORCE.

3 13 1. The director shall regulate, license, and inspect food
3 14 establishments and food processing plants and enforce this
3 15 chapter pursuant to rules adopted by the department in
3 16 accordance with chapter 17A. Municipal corporations shall not
3 17 regulate, license, inspect, or collect license fees from food
3 18 establishments and food processing plants, except as provided
3 19 in this section.

3 20 2. A municipal corporation may enter into an agreement
3 21 with the director to provide that the municipal corporation
3 22 shall license, inspect, and otherwise enforce this chapter
3 23 within its jurisdiction. The director may enter into the
3 24 agreement if the director finds that the municipal corporation
3 25 has adequate resources to perform the required functions. A
3 26 municipal corporation may only enter into an agreement to
3 27 enforce the ~~Iowa food code rules setting minimum standards to~~
3 28 ~~protect consumers from foodborne illness adopted pursuant to~~
3 29 ~~this section~~ 137F.2 if it also agrees to enforce the Iowa
3 30 hotel sanitation code pursuant to section 137C.6. However,
3 31 the department shall license and inspect all food processing
3 32 plants which manufacture, package, or label food products. A
3 33 municipal corporation may license and inspect, as authorized
3 34 by this section, food processing plants whose operations are
3 35 limited to the storage of food products.

4 1 3. If the director enters into an agreement with a
4 2 municipal corporation as provided by this section, the
4 3 director shall provide that the inspection practices of a
4 4 municipal corporation are spot-checked on a regular basis.

4 5 4. A municipal corporation that is responsible for
4 6 enforcing this chapter within its jurisdiction pursuant to an
4 7 agreement shall make an annual report to the director
4 8 providing the following information:

4 9 ~~1-~~ a. The total number of licenses granted or renewed by
4 10 the municipal corporation under this chapter during the year.

4 11 ~~2-~~ b. The number of licenses granted or renewed by the
4 12 municipal corporation under this chapter during the year in
4 13 each of the following categories:

4 14 ~~a-~~ (1) Food establishments.

4 15 ~~b-~~ (2) Food processing plants.

4 16 ~~c-~~ (3) Mobile food units and pushcarts.

4 17 ~~d-~~ (4) Temporary food establishments.

4 18 ~~e-~~ (5) Vending machines.

4 19 ~~3-~~ c. The amount of money collected in license fees
4 20 during the year.

4 21 ~~4-~~ d. Other information the director requests.

4 22 5. The director shall monitor municipal corporations which
4 23 have entered into an agreement pursuant to this section to
4 24 determine if they are enforcing this chapter within their
4 25 respective jurisdictions. If the director determines that
4 26 this chapter is not enforced by a municipal corporation, the
4 27 director may rescind the agreement after reasonable notice and
4 28 an opportunity for a hearing. If the agreement is rescinded,
4 29 the director shall assume responsibility for enforcement in

4 30 the jurisdiction involved.

4 31 Sec. 6. Section 137F.3A, Code 2007, is amended to read as
4 32 follows:

4 33 137F.3A MUNICIPAL CORPORATION INSPECTIONS == CONTINGENT
4 34 APPROPRIATION.

4 35 1. If a municipal corporation operating pursuant to a
5 1 chapter 28E agreement with the department of inspections and
5 2 appeals to enforce this chapter and chapters 137C and 137D
5 3 either fails to renew the agreement effective after July 1,
5 4 2005, ~~but before July 1, 2007,~~ or discontinues ~~prior to July~~
~~5 5 1, 2007,~~ enforcement activities in one or more jurisdictions
5 6 during the agreement time frame, or the department of
5 7 inspections and appeals cancels an agreement ~~prior to July 1,~~
~~5 8 2007,~~ due to noncompliance with the terms of the agreement,
5 9 the department of inspections and appeals may employ
5 10 additional full-time equivalent positions ~~for the fiscal years~~
~~5 11 ending prior to July 1, 2007,~~ to enforce the provisions of the
5 12 chapters, with the approval of the department of management.
5 13 Before approval is given, the director of the department of
5 14 management shall determine that the expenses exceed the funds
5 15 budgeted by the general assembly for food inspections to the
5 16 department of inspections and appeals. The department of
5 17 inspections and appeals may hire no more than one full-time
5 18 equivalent position for each six hundred inspections required
5 19 pursuant to this chapter and chapters 137C and 137D.

5 20 2. Notwithstanding chapter 137D, and sections 137C.9 and
5 21 137F.6, if the conditions described in this section are met,
5 22 fees imposed pursuant to that chapter and those sections shall
5 23 be retained by and are appropriated to the department of
5 24 inspections and appeals ~~for the each fiscal years ending prior~~
~~5 25 to July 1, 2007,~~ year to provide for salaries, support,
5 26 maintenance, and miscellaneous purposes associated with the
5 27 additional inspections.

5 28 ~~3. This section is repealed July 1, 2007.~~

5 29 Sec. 7. Section 137F.6, Code 2007, is amended by adding
5 30 the following new subsections:

5 31 NEW SUBSECTION. 8. Upon transfer of ownership of an
5 32 existing food establishment or food processing plant subject
5 33 to a license fee under subsection 4, 5, or 6, the new owner
5 34 shall pay the last license fee amount paid by the previous
5 35 owner for the first year of licensure. In subsequent years,
6 1 the licensee shall pay the fee specified for the licensee's
6 2 annual gross sales.

6 3 NEW SUBSECTION. 9. A new applicant subject to a license
6 4 fee under subsection 4, 5, or 6, shall pay the license fee
6 5 based on projected gross sales under each of the applicable
6 6 subsections for the first year of licensure. In subsequent
6 7 years, the licensee shall pay the fee specified for the
6 8 licensee's annual gross sales.

6 9 NEW SUBSECTION. 10. For a food establishment or food
6 10 processing plant that is being remodeled or newly constructed
6 11 and that is subject to a license fee under subsection 4, 5, or
6 12 6, the applicant shall pay, in addition to any other fees
6 13 assessed under this chapter, a plan review fee of up to two
6 14 hundred fifty dollars, as determined by the regulatory
6 15 authority.

6 16 NEW SUBSECTION. 11. For a food establishment or food
6 17 processing plant that is being remodeled and that is subject
6 18 to a license fee under subsection 4, 5, or 6, the licensee
6 19 shall pay, in addition to any other fees assessed under this
6 20 chapter, a plan review fee of up to two hundred fifty dollars,
6 21 as determined by the regulatory authority.

6 22 NEW SUBSECTION. 12. If a routine inspection or a
6 23 complaint investigation of a food establishment or food
6 24 processing plant subject to a license fee under subsection 4,
6 25 5, or 6, reveals the presence of one or more critical
6 26 violations and requires one or more physical reinspections, a
6 27 reinspection fee equal to fifty dollars shall be assessed for
6 28 each reinspection. Failure to pay the reinspection fee shall
6 29 subject a food establishment or food processing plant to
6 30 suspension or revocation of the food establishment's or food
6 31 processing plant's license pursuant to section 137F.7 and to
6 32 the penalty provisions of section 137F.17.

6 33 Sec. 8. Section 331.756, subsection 32, Code 2007, is
6 34 amended to read as follows:

6 35 32. Assist the department of inspections and appeals in
7 1 the enforcement of the ~~Iowa food code rules setting minimum~~
7 2 ~~standards to protect consumers from foodborne illness adopted~~
7 3 ~~pursuant to section 137F.2 and the Iowa hotel sanitation code,~~
7 4 as provided in sections 137F.19 and 137C.30.

7 5 Sec. 9. FOOD CODE APPLICABILITY == TEMPORARY PROVISIONS.

7 6 Pending the adoption of rules pursuant to section 137F.2, as
7 7 amended by this Act, the 1997 edition of the United States
7 8 food and drug administration food code, with the amendments or
7 9 exceptions thereto in effect prior to the effective date of
7 10 this Act, shall continue in effect.

7 11 Sec. 10. EFFECTIVE DATE. This Act, being deemed of
7 12 immediate importance, takes effect upon enactment.

7 13 EXPLANATION

7 14 This bill makes changes regarding the licensing and
7 15 inspection of hotels, home food establishments, and food
7 16 establishments.

7 17 The bill provides for the deletion of a specific reference
7 18 to the adoption of the "food code" in Code section 137F.2,
7 19 statutory amendments or exceptions to the food code, providing
7 20 instead for the adoption of rules setting minimum standards to
7 21 protect consumers from foodborne illness. The bill provides
7 22 that the rules may incorporate by reference, with or without
7 23 amendment, the United States food and drug administration food
7 24 code, which if incorporated shall be specified by title and
7 25 edition, date of publication, or similar information, and that
7 26 the rules and standards shall be formulated in consultation
7 27 with municipal corporations under agreement with the
7 28 department, affected state agencies, and industry,
7 29 professional, and consumer groups. Conforming changes are
7 30 made to other Code provisions currently referencing the "food
7 31 code" as referred to in Code chapter 137F. The bill specifies
7 32 that until the rules are adopted, the 1997 edition of the
7 33 United States food and drug administration food code, with the
7 34 amendments or exceptions in effect prior to the effective date
7 35 of the bill, shall continue to apply.

8 1 The bill includes in the definition of a "food
8 2 establishment" in Code section 137F.1 a salvage or distressed
8 3 food operation.

8 4 Code section 137F.3A, enacted in 2006, is amended to
8 5 provide that the department of inspections and appeals may
8 6 retain fees imposed on hotels, home food establishments, and
8 7 on certain food establishments, each fiscal year and use the
8 8 fees retained for costs associated with having the department
8 9 conduct food inspections in jurisdictions where the applicable
8 10 municipal corporation fails to conduct the inspections on or
8 11 after July 1, 2005. Current law allows the department to
8 12 retain and use such fees between July 1, 2005, and July 1,
8 13 2007. The bill eliminates the future repeal of the provision
8 14 on July 1, 2007.

8 15 The bill provides for new categories of fees for
8 16 reinspection and plan review relating to food establishments
8 17 under Code chapter 137F. The bill provides that if a transfer
8 18 of ownership of a certain type of existing food establishment
8 19 or food processing plant licensed under Code section 137F.6
8 20 occurs, which would include a food establishment which
8 21 prepares or serves food for individual portion service
8 22 intended for consumption on=the=premises, a food establishment
8 23 which sells food or food products to consumer customers
8 24 intended for preparation or consumption off=the=premises, or a
8 25 food processing plant, the new owner shall pay the last
8 26 license fee for the first year of licensure, and in subsequent
8 27 years, the fee specified for their annual gross sales.

8 28 The bill additionally provides that an applicant for
8 29 certain new licenses under Code section 137F.6 shall pay the
8 30 license fee based on projected gross sales for the first year
8 31 of licensure and, in subsequent years, the fee specified for
8 32 their annual gross sales.

8 33 Further, for certain food establishments and food
8 34 processing plants to be licensed under Code section 137F.6
8 35 that are being newly constructed or remodeled, or for an
9 1 existing licensee undergoing remodeling, the bill provides
9 2 that the applicant or licensee shall pay, in addition to any
9 3 other fees assessed, a plan review fee of up to \$250, as
9 4 determined by the regulatory authority.

9 5 Additionally, the bill provides that if a routine
9 6 inspection or a complaint investigation of certain food
9 7 establishments and food processing plants licensed under Code
9 8 section 137F.6 reveals the presence of one or more critical
9 9 violations and requires one or more physical reinspections, a
9 10 reinspection fee equal to \$50 shall be assessed for each
9 11 reinspection. The bill specifies that failure to pay the
9 12 reinspection fee shall subject a licensee to suspension or
9 13 revocation of the license pursuant to Code section 137F.7, and
9 14 the penalty provisions of Code section 137F.17.

9 15 The bill takes effect upon enactment.

