

Senate Study Bill 3137

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

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

A BILL FOR

1 An Act relating to health-related activities and regulation by
2 the department of public health.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5466DP 82
5 jp/nh/24

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1 1 DIVISION I
1 2 GENERAL PROVISIONS
1 3 Section 1. Section 135.11, subsection 6, Code Supplement
1 4 2007, is amended by striking the subsection.
1 5 Sec. 2. Section 135.11, subsection 13, Code Supplement
1 6 2007, is amended to read as follows:
1 7 13. Establish and maintain ~~such divisions in the~~
~~1 8 department as are necessary for the proper enforcement of the~~
~~1 9 laws administered by it, including a division of contagious~~
~~1 10 and infectious diseases, a division of venereal diseases, a~~
~~1 11 division of housing, a division of sanitary engineering, and a~~
~~1 12 division of vital statistics, but the various services of the~~
~~1 13 department shall be so consolidated as to eliminate~~
~~1 14 unnecessary personnel and make possible the carrying on of the~~
~~1 15 functions of the department under the most economical methods~~
1 16 the department.
1 17 Sec. 3. Section 135.22B, subsection 6, paragraph b, Code
1 18 Supplement 2007, is amended to read as follows:
1 19 b. The individual has a ~~diagnosed~~ diagnosis of brain
1 20 injury as defined in section 135.22 that meets the diagnosis
~~1 21 eligibility criteria for the brain injury services waiver.~~
1 22 Sec. 4. Section 135.37, Code 2007, is amended by adding
1 23 the following new subsection:
1 24 NEW SUBSECTION. 6. As necessary to avoid duplication and
1 25 promote coordination of public health inspection and
1 26 enforcement activities, the department may enter into
1 27 agreements with local boards of health to provide for
1 28 inspection and enforcement of tattooing establishments in
1 29 accordance with the rules and criteria implemented under this
1 30 section.
1 31 Sec. 5. Section 135I.2, Code 2007, is amended to read as
1 32 follows:
1 33 135I.2 APPLICABILITY.
1 34 This chapter applies to all swimming pools and spas owned
1 35 or operated by local or state government, or commercial
2 1 interests or private entities including, but not limited to,
2 2 facilities operated by cities, counties, public or private
2 3 school corporations, hotels, motels, camps, apartments,
2 4 condominiums, and health or country clubs. This chapter does
2 5 not apply to facilities intended for single family use or to a
2 6 swimming pool or spa operated by a homeowners' association
2 7 representing seventy-two or fewer dwelling units if the
2 8 association's bylaws, which also apply to a rental agreement
2 9 relative to any of the dwelling units, include an exemption
2 10 from the requirements of this chapter, provide for inspection
2 11 of the swimming pool or spa by an entity other than the
2 12 department or local board of health, and assume any liability
2 13 associated with operation of the swimming pool or spa. This
2 14 chapter does not apply to a swimming pool or spa used
2 15 exclusively for therapy under the direct supervision of
2 16 qualified medical personnel. To avoid duplication and promote
2 17 coordination of inspection activities, the department may
2 18 enter into written agreements ~~pursuant to chapter 28E~~ with a
2 19 local board of health to provide for inspection and

2 20 enforcement in accordance with this chapter.
2 21 Sec. 6. Section 136C.15, subsection 2, paragraph a, Code
2 22 2007, is amended to read as follows:

2 23 a. ~~The radiation machine meets the criteria for the~~
~~2 24 American college of radiology a mammography accreditation~~
2 25 program approved by the United States food and drug
2 26 administration. The department shall make copies of those
2 27 criteria available to the public and may by rule adopt
2 28 modified criteria. The department may accept an evaluation
2 29 report issued by ~~the American college of radiology~~ such an
2 30 approved accreditation program as evidence that a radiation
2 31 machine meets those criteria. If at any time the department
2 32 determines that it will not accept any evaluation reports
2 33 issued by ~~the American college of radiology~~ such an approved
2 34 accreditation program as evidence that a radiation machine
2 35 meets those criteria, the department shall promptly notify
3 1 each person who has registered a radiation machine under this
3 2 paragraph.

3 3 Sec. 7. Section 136C.15, subsections 4, 5, 6, and 10, Code
3 4 2007, are read as follows:

3 5 4. To obtain authorization from the department to use a
3 6 radiation machine for mammography, the person who owns or
3 7 leases the radiation machine or an authorized agent of the
3 8 person shall apply to the department for mammography
3 9 authorization on an application form provided by the
3 10 department and shall provide all of the information required
3 11 by the department as specified on the application form. A
3 12 person who owns or leases more than one radiation machine used
3 13 for mammography shall obtain authorization for each radiation
3 14 machine. The department shall process and respond to an
3 15 application within thirty days after the date of receipt of
3 16 the application. Upon determining to grant mammography
3 17 authorization for a radiation machine, the department shall
3 18 issue a certificate of registration specifying ~~the~~ mammography
3 19 ~~authorization for each authorized radiation machine.~~ A
3 20 mammography authorization is effective for three years.

3 21 5. ~~No later than sixty days after initial mammography~~
~~3 22 authorization of a radiation machine under this section, the~~
~~3 23 department shall inspect the radiation machine. After that~~
3 24 initial inspection, the ~~The~~ department shall annually inspect
3 25 the each authorized radiation machine and may inspect the
3 26 radiation machine more frequently. The department shall make
3 27 reasonable efforts to coordinate the inspections under this
3 28 section with the department's other inspections of the
3 29 facility in which the radiation machine is located.

3 30 6. After each satisfactory inspection by the department,
3 31 the department shall issue a ~~certificate of radiation machine~~
3 32 written proof of inspection or a similar document identifying
3 33 the facility and radiation machine inspected and providing a
3 34 record of the date the radiation machine was inspected. ~~The~~
~~3 35 facility shall post the certificate or other document near the~~
~~4 1 inspected radiation machine.~~

4 2 10. If the department withdraws the mammography
4 3 authorization of a radiation machine, the radiation machine
4 4 shall not be used for mammography. An application for
4 5 reinstatement of a mammography authorization shall be filed
4 6 and processed in the same manner as an application for
4 7 mammography authorization under subsection 4, except that the
4 8 department shall not issue a reinstated certificate of
4 9 ~~mammography~~ registration specifying the mammography
4 10 authorization until the department inspects the radiation
4 11 machine and determines that it meets the standards set forth
4 12 in subsection 2. The department shall conduct an inspection
4 13 required under this subsection no later than sixty days after
4 14 receiving a proper application for reinstatement of a
4 15 mammography authorization.

4 16 Sec. 8. Section 136D.3, Code 2007, is amended to read as
4 17 follows:

4 18 136D.3 APPLICATION OF CHAPTER.

4 19 1. This chapter does not apply to a phototherapy device
4 20 used by or under the supervision of a licensed physician
4 21 trained in the use of phototherapy devices. A tanning device
4 22 used by a tanning facility must comply with all applicable
4 23 federal laws and regulations.

4 24 2. This chapter shall not supersede or duplicate the
4 25 authority and programs of any other agency of the state or the
4 26 United States. To avoid duplication and promote coordination
4 27 of radiation protection activities, the department may enter
4 28 into written agreements pursuant to chapter 28E with other
4 29 state or federal agencies, with local boards of public health,
4 30 or with private organizations or individuals, to administer

4 31 this chapter.

4 32 Sec. 9. Section 139A.35, Code 2007, is amended to read as
4 33 follows:

4 34 139A.35 MINORS.

4 35 A minor ~~who seeks diagnosis or treatment for a sexually~~
5 1 ~~transmitted disease or infection~~ shall have the legal capacity
5 2 to act and give consent to provision of medical care and
5 3 ~~service for the or services to the minor for the prevention,~~
5 4 ~~diagnosis, or treatment of a sexually transmitted disease or~~
5 5 infection by a hospital, clinic, or health care provider.
5 6 Such medical ~~diagnosis and treatment~~ care or services shall be
5 7 provided by or under the supervision of a physician licensed
5 8 to practice medicine and surgery, osteopathy, or osteopathic
5 9 medicine and surgery, a physician assistant, or an advanced
5 10 registered nurse practitioner. Consent shall not be subject
5 11 to later disaffirmance by reason of such minority. The
5 12 consent of another person, including but not limited to the
5 13 consent of a spouse, parent, custodian, or guardian, shall not
5 14 be necessary.

5 15 Sec. 10. Section 144.28, subsection 1, Code Supplement
5 16 2007, is amended to read as follows:

5 17 1. a. ~~The~~ For the purposes of this section, "nonnatural
5 18 cause of death" means the death is a direct or indirect result
5 19 of physical, chemical, thermal, or electrical trauma, or drug
5 20 or alcohol intoxication or other poisoning.

5 21 b. ~~Unless there is a nonnatural cause of death, the~~
5 22 medical certification shall be completed and signed by the
5 23 physician in charge of the patient's care for the illness or
5 24 condition which resulted in death within seventy-two hours
5 25 after receipt of the death certificate from the funeral
5 26 director or individual who initially assumes custody of the
5 27 body, ~~except when inquiry is required by.~~

5 28 c. ~~If there is a nonnatural cause of death, the county or~~
5 29 ~~state medical examiner shall be notified and shall conduct an~~
5 30 ~~inquiry.~~

5 31 d. ~~If the decedent was an infant or child and the cause of~~
5 32 ~~death is not known, a medical examiner's inquiry shall be~~
5 33 ~~conducted and an autopsy performed as necessary to exclude a~~
5 34 ~~nonnatural cause of death.~~

5 35 e. ~~If upon inquiry into the~~ a death, the county or state
6 1 medical examiner determines that a preexisting natural disease
6 2 or condition was the likely cause of death and that the death
6 3 does not affect the public interest as described in section
6 4 331.802, subsection 3, the ~~county~~ medical examiner may elect
6 5 to defer to the physician in charge of the patient's
6 6 preexisting condition the certification of the cause of death.

6 7 f. ~~When an~~ inquiry is required by the county or state
6 8 medical examiner, the medical examiner shall investigate the
6 9 cause and manner of death and shall complete and sign the
6 10 medical certification within seventy-two hours after
6 11 determination of the cause and manner of death.

DIVISION II

ANIMALS FOR SCIENTIFIC RESEARCH CHAPTER REPEAL

6 14 Sec. 11. Section 135.1, unnumbered paragraph 1, Code 2007,
6 15 is amended to read as follows:

6 16 For the purposes of chapter 155 and Title IV, subtitle 2,
6 17 excluding chapters 142B, ~~145B,~~ and 146, unless otherwise
6 18 defined:

6 19 Sec. 12. Section 135.11, subsection 14, Code Supplement
6 20 2007, is amended to read as follows:

6 21 14. Establish, publish, and enforce rules not inconsistent
6 22 with law for the enforcement of the provisions of chapters 125
6 23 and 155, and Title IV, subtitle 2, excluding chapters 142B,
6 24 ~~145B,~~ and 146 and for the enforcement of the various laws, the
6 25 administration and supervision of which are imposed upon the
6 26 department.

6 27 Sec. 13. Section 162.20, subsection 5, paragraph c, Code
6 28 2007, is amended to read as follows:

6 29 c. The transfer of a dog or cat to ~~an institution as~~
6 30 ~~defined in section 145B.1,~~ a research facility as defined in
6 31 section 162.27 or a person licensed by the United States
6 32 department of agriculture as a class B dealer pursuant to 9
6 33 C.F.R. subchapter A, part 2. However, a class B dealer who
6 34 receives an unsterilized dog or cat from a pound or animal
6 35 shelter shall either sterilize the dog or cat or transfer the
7 1 unsterilized dog or cat to ~~an institution or a research~~
7 2 facility provided in this paragraph. The class B dealer shall
7 3 not transfer a dog to ~~an institution or a research facility,~~
7 4 if the dog is a greyhound registered with the national
7 5 greyhound association and the dog raced at a track associated
7 6 with pari-mutuel racing, unless the class B dealer receives

7 7 written approval of the transfer from a person who owned an
7 8 interest in the dog while the dog was racing.

7 9 Sec. 14. Section 717.1A, subsection 7, Code 2007, is
7 10 amended to read as follows:

7 11 ~~7. An institution, as defined in section 145B.1, or a A~~
7 12 research facility, as defined in section 162.2, provided that
7 13 the ~~institution or~~ research facility performs functions within
7 14 the scope of accepted practices and disciplines associated
7 15 with the ~~institution or~~ research facility.

7 16 Sec. 15. Section 717.2, subsection 3, Code 2007, is
7 17 amended to read as follows:

7 18 3. This section does not apply to ~~an institution, as~~
7 19 ~~defined in section 145B.1, or a~~ research facility, as defined
7 20 in section 162.2, provided that the ~~institution or~~ research
7 21 facility performs functions within the scope of accepted
7 22 practices and disciplines associated with the ~~institution or~~
7 23 research facility.

7 24 Sec. 16. Section 717A.1, subsection 4, paragraph b, Code
7 25 2007, is amended to read as follows:

7 26 b. A location where an animal is maintained for
7 27 educational or scientific purposes, including ~~an institution~~
7 28 ~~as defined in section 145B.1,~~ a research facility as defined
7 29 in section 162.2, an exhibition, or a vehicle used to
7 30 transport the animal.

7 31 Sec. 17. Section 717B.2, subsection 11, Code 2007, is
7 32 amended to read as follows:

7 33 11. ~~An institution, as defined in section 145B.1, or a A~~
7 34 research facility, as defined in section 162.2, provided that
7 35 the ~~institution or~~ research facility performs functions within
8 1 the scope of accepted practices and disciplines associated
8 2 with the ~~institution or~~ research facility.

8 3 Sec. 18. Section 717B.3, subsection 2, Code 2007, is
8 4 amended to read as follows:

8 5 2. This section does not apply to ~~an institution, as~~
8 6 ~~defined in section 145B.1, or a~~ research facility, as defined
8 7 in section 162.2, provided that the ~~institution or~~ research
8 8 facility performs functions within the scope of accepted
8 9 practices and disciplines associated with the ~~institution or~~
8 10 research facility.

8 11 Sec. 19. Section 717B.3A, subsection 2, paragraph k, Code
8 12 2007, is amended to read as follows:

8 13 k. ~~An institution, as defined in section 145B.1, or a A~~
8 14 research facility, as defined in section 162.2, provided that
8 15 the ~~institution or~~ research facility performs functions within
8 16 the scope of accepted practices and disciplines associated
8 17 with the ~~institution or~~ research facility.

8 18 Sec. 20. Section 717D.3, subsection 2, paragraph k, Code
8 19 2007, is amended to read as follows:

8 20 k. ~~An institution, as defined in section 145B.1, or a A~~
8 21 research facility, as defined in section 162.2, provided that
8 22 the ~~institution or~~ research facility performs functions within
8 23 the scope of accepted practices and disciplines associated
8 24 with the ~~institution or~~ research facility.

8 25 Sec. 21. Chapter 145B, Code 2007, is repealed.

8 26 DIVISION III
8 27 COUNCIL ON CHEMICALLY EXPOSED INFANTS AND
8 28 CHILDREN CHAPTER REPEAL

8 29 Sec. 22. Chapter 235C, Code 2007, is repealed.

8 30 EXPLANATION

8 31 This bill relates to health-related activities and
8 32 regulation by the department of public health. The bill is
8 33 organized into divisions.

8 34 GENERAL PROVISIONS. This division amends various Code
8 35 provisions involving the activities and regulatory authority
9 1 of the department.

9 2 Code section 135.11, relating to the duties of the
9 3 department, is amended to remove the responsibility for
9 4 exercising general supervision over the administration of the
9 5 housing law and giving aid to local authorities in the
9 6 enforcement of the law. In addition, the department is
9 7 generally directed to maintain divisions necessary to enforce
9 8 the laws administered by the department in place of a list of
9 9 specific divisions, including contagious and infectious
9 10 diseases, venereal diseases, housing, sanitary engineering,
9 11 and vital statistics.

9 12 Code section 135.22B, relating to the brain injury services
9 13 program administered by the department, is amended to provide
9 14 that the brain injury diagnosis used for the cost-share
9 15 component of the program is the same as that used for the
9 16 Medicaid home and community-based services waiver for persons
9 17 with brain injury.

9 18 Code section 135.37, relating to inspection and enforcement
9 19 activities by the department involving tattooing
9 20 establishments, is amended to authorize the department to
9 21 enter into agreements with local boards of public health for
9 22 inspection and enforcement activities involving such
9 23 establishments.

9 24 Code section 136C.15, relating to accreditation of
9 25 radiation machines used for mammography, is amended to change
9 26 the approval authority for the accreditation program to the
9 27 United States food and drug administration, allow a general
9 28 registration for mammography authorization to be issued
9 29 instead of one for each machine, replace the required
9 30 inspection of a radiation machine within 60 days of the
9 31 initial authorization with an annual inspection requirement,
9 32 and replace a certificate of radiation machine inspection with
9 33 a written proof of inspection and eliminate the required
9 34 posting of the written proof.

9 35 Code section 135I.2, relating to swimming pools and spas
10 1 that are subject to regulation by the department, is amended
10 2 to allow the department to use written agreements with local
10 3 boards of public health to provide inspection and enforcement
10 4 instead of Code chapter 28E agreements.

10 5 Code section 136D.3, relating to the applicability of Code
10 6 chapter 136D, the tanning facility regulation Act, is amended
10 7 to allow the department to use written agreements to provide
10 8 for inspection and enforcement instead of Code chapter 28E
10 9 agreements and to include local boards of public health as
10 10 entities that may agree to provide inspection and enforcement
10 11 under the Act.

10 12 Code section 139A.35, relating to the authority of a minor
10 13 to give consent for provision of medical care or services for
10 14 a sexually transmitted disease or infection, is amended to
10 15 allow the consent for prevention, diagnosis, or treatment.
10 16 Current law limits the consent authority of a minor to
10 17 diagnosis and treatment.

10 18 Code section 144.28, relating to the medical certification
10 19 of death, is amended to require an inquiry by the county or
10 20 state medical examiner when there is a "nonnatural cause of
10 21 death". This term is defined by the bill to mean the death is
10 22 the direct or indirect result of physical, chemical,
10 23 electrical, or thermal trauma, or drug or alcohol intoxication
10 24 or other poisoning. Unless there is a nonnatural cause of
10 25 death, the requirement in current law applies which requires
10 26 the physician in charge to sign the medical certification
10 27 within 72 hours of receiving the death certificate. If there
10 28 is a nonnatural death, the bill requires notification of the
10 29 county or state medical examiner who is required to conduct an
10 30 inquiry. If the decedent was an infant or child and there is
10 31 not a known cause of death, a medical examiner's inquiry is
10 32 required and an autopsy as necessary to exclude a nonnatural
10 33 cause of death. When there is an inquiry, the medical
10 34 examiner is required by the bill to determine the manner of
10 35 death in addition to determining the cause of death as is
11 1 required under current law.

11 2 ANIMALS FOR SCIENTIFIC RESEARCH CHAPTER REPEAL. This
11 3 division repeals Code chapter 145B, relating to the
11 4 department's authority to regulate the use of dogs and other
11 5 animals for scientific research and other provisions
11 6 regulating such use. Various other Code sections are amended
11 7 to reflect the repeal.

11 8 COUNCIL ON CHEMICALLY EXPOSED INFANTS AND CHILDREN. This
11 9 division repeals Code chapter 235C which establishes the
11 10 council on chemically exposed infants and children as a
11 11 subcommittee of the committee on maternal and child health of
11 12 the community health division of the department. The
11 13 council's duties include data collection, enhancing prevention
11 14 and education, increasing identification of such infants and
11 15 children, improving treatment services, expanding care and
11 16 placement options, and awarding grants.

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11 18 jp/nh/24.2