

# Senate File 401 - 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 the authority of the director of the  
2 department of inspections and appeals to modify or reverse a  
3 proposed decision rendered by an administrative law judge  
4 relating to a citation issued to a health care facility.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 2060SS 83  
7 jr/nh/8

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1 1 Section 1. Section 135C.43, Code 2009, is amended to read  
1 2 as follows:  
1 3 135C.43 FORMAL CONTEST == JUDICIAL REVIEW.  
1 4 1. A facility which desires to contest a citation for a  
1 5 Class I violation, or to further contest an affirmed or  
1 6 modified citation for a Class II or Class III violation, may  
1 7 do so in the manner provided by chapter 17A for contested  
1 8 cases. Notice of intent to formally contest a citation shall  
1 9 be given the department in writing within five days after  
1 10 service of a citation for a Class I violation, or within five  
1 11 days after the informal conference or after receipt of the  
1 12 written explanation of the representative delegated to hold  
1 13 the informal conference, whichever is applicable, in the case  
1 14 of an affirmed or modified citation for a Class II or Class  
1 15 III violation.  
1 16 2. a. Notwithstanding the provisions of section 17A.15 to  
1 17 the contrary, the director shall not reverse or modify any  
1 18 finding of fact or conclusion of law set out in the decision  
1 19 of an administrative law judge unless:  
1 20 (1) The director first determines from a review of the  
1 21 entire record, and states with particularity in the order,  
1 22 that the finding of fact was clearly erroneous in view of the  
1 23 reliable, probative, and substantial evidence on the record as  
1 24 a whole.  
1 25 (2) The director first determines from a review of the  
1 26 entire record, and states with particularity in the order that  
1 27 the conclusion of law was clearly erroneous in view of the  
1 28 reliable, probative, and substantial evidence on the record as  
1 29 a whole and the relevant case law.  
1 30 b. Rejection or modification of conclusions of law shall  
1 31 not form the basis for rejection or modification of the  
1 32 findings of fact.  
1 33 3. A facility which has exhausted all adequate  
1 34 administrative remedies and is aggrieved by the final action  
1 35 of the department may petition for judicial review in the  
2 1 manner provided by chapter 17A.  
2 2 ~~2.~~ 4. Hearings on petitions for judicial review brought  
2 3 under this section shall be set for trial at the earliest  
2 4 possible date and shall take precedence on the court calendar  
2 5 over all other cases except matters to which equal or superior  
2 6 precedence is specifically granted by law. The times for  
2 7 pleadings and for hearings in such actions shall be set by the  
2 8 judge of the court with the object of securing a decision in  
2 9 the matter at the earliest possible time.  
2 10 EXPLANATION  
2 11 Code section 17A.15 provides that in a contested case an  
2 12 administrative law judge issues a proposed decision, which may  
2 13 be appealed to, or reviewed by, the agency itself. This bill  
2 14 provides that in contested cases involving the citation of a  
2 15 health care facility, the decision, consisting of findings of  
2 16 fact and conclusions of law, of an administrative law judge

2 17 shall be reversed or modified by the director of the  
2 18 department of inspections and appeals only under specific  
2 19 circumstances set out in the bill.  
2 20 LSB 2060SS 83  
2 21 jr/nh/8