

Senate Study Bill 1169 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON FEENSTRA)

A BILL FOR

1 An Act relating to licensure, regulation, and complaint
2 procedures for the hotel sanitation code and food
3 establishments and food processing plants, and modifying
4 fees and penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

HOTEL SANITATION CODE

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Section 1. Section 137C.6, subsection 3, paragraph b, Code 2017, is amended by striking the paragraph.

Sec. 2. Section 137C.7, Code 2017, is amended to read as follows:

137C.7 License required.

~~No~~ A person shall not open or operate a hotel until the regulatory authority has inspected the hotel and issued a license has been obtained from the regulatory authority and until the hotel has been inspected by the regulatory authority to the person. The regulatory authority shall conduct inspections in accordance with standards adopted by the department by rule pursuant to chapter 17A. Each license shall expire one year from the date of issue. A license is renewable. All licenses issued under ~~the Iowa hotel sanitation code~~ this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee per month if the license is renewed at a later date. A license is not transferable.

Sec. 3. Section 137C.9, subsection 1, Code 2017, is amended to read as follows:

1. Either the department or the municipal corporation shall collect the following annual license fees:

a. For a hotel containing ~~fifteen~~ thirty guest rooms or less, ~~twenty-seven~~ fifty dollars.

b. For a hotel containing more than ~~fifteen~~ thirty but less than ~~thirty-one~~ one hundred one guest rooms, ~~forty dollars and fifty cents~~ one hundred dollars.

c. For a hotel containing more than ~~thirty~~ but less than ~~seventy-six~~ one hundred one guest rooms, ~~fifty-four~~ one hundred fifty dollars.

~~d. For a hotel containing more than seventy-five but less than one hundred fifty guest rooms, fifty-seven dollars and fifty cents.~~

1 ~~e. For a hotel containing one hundred fifty or more guest~~
2 ~~rooms, one hundred one dollars and twenty-five cents.~~

3 Sec. 4. Section 137C.12, Code 2017, is amended to read as
4 follows:

5 **137C.12 Inspection upon complaint.**

6 Upon receipt of a ~~verified~~ complaint ~~signed by a guest of a~~
7 ~~hotel and~~ stating facts indicating the ~~place is~~ premises of a
8 hotel are in an ~~insanitary~~ unsanitary condition, the regulatory
9 authority shall conduct an inspection.

10 DIVISION II

11 FOOD ESTABLISHMENTS AND FOOD PROCESSING PLANTS

12 Sec. 5. Section 137F.1, Code 2017, is amended by adding the
13 following new subsections:

14 NEW SUBSECTION. 4A. "*Event*" means a significant occurrence
15 or happening sponsored by a civic, business, educational,
16 governmental, community, or veterans organization and may
17 include an athletic contest.

18 NEW SUBSECTION. 15A. "*Time/temperature control for safety*
19 *food*" means a food that requires time and temperature controls
20 for safety to limit pathogenic microorganism growth or toxin
21 formation.

22 Sec. 6. Section 137F.1, subsection 7, unnumbered paragraph
23 1, Code 2017, is amended to read as follows:

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

33 Sec. 7. Section 137F.1, subsection 7, paragraphs b, e, and
34 f, Code 2017, are amended to read as follows:

35 *b.* An establishment that offers only prepackaged foods that

1 are ~~nonpotentially hazardous~~ not time/temperature control for
2 safety foods.

3 e. Premises where a person operates a farmers market, if
4 ~~potentially hazardous food is~~ time/temperature control for
5 safety foods are not sold or distributed from the premises.

6 f. Premises of a residence in which food that is
7 ~~nonpotentially hazardous~~ not a time/temperature control for
8 safety food is sold for consumption off the premises to a
9 consumer customer, if the food is labeled to identify the name
10 and address of the person preparing the food and the common
11 name of the food.

12 Sec. 8. Section 137F.1, subsections 11 and 12, Code 2017,
13 are amended by striking the subsections.

14 Sec. 9. Section 137F.1, subsections 13, 15, 16, and 17, Code
15 2017, are amended to read as follows:

16 13. "*Pushcart*" means a non-self-propelled vehicle food
17 establishment limited to serving ~~nonpotentially hazardous foods~~
18 foods that are not time/temperature control for safety foods or
19 commissary-wrapped foods maintained at proper temperatures, or
20 limited to the preparation and serving of frankfurters.

21 15. "*Temporary food establishment*" means a food
22 establishment that operates for a period of no more than
23 fourteen consecutive days in conjunction with a single event
24 ~~or celebration~~.

25 16. "*Vending machine*" means a ~~food establishment which is~~
26 a self-service device that, upon insertion of a coin, paper
27 currency, token, card, or key, or by optional manual operation,
28 dispenses unit servings of food in bulk or in packages without
29 the necessity of replenishing the device between each vending
30 operation.

31 17. "*Vending machine location*" means the ~~physical site~~
32 room, enclosure, space, or area where a one or more vending
33 ~~machine is~~ machines are installed and operated, including the
34 storage and ~~servicing~~ areas on the premises that are used ~~in~~
35 ~~conjunction with~~ to service and maintain the vending machine.

1 Sec. 10. Section 137F.3, subsection 4, Code 2017, is amended
2 to read as follows:

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

7 ~~a. The total number of licenses granted or renewed by the~~
8 ~~municipal corporation under this chapter during the year.~~

9 ~~b. The number of licenses granted or renewed by the~~
10 ~~municipal corporation under this chapter during the year in~~
11 ~~each of the following categories:~~

12 ~~(1) Food establishments.~~

13 ~~(2) Food processing plants.~~

14 ~~(3) Mobile food units and pushcarts.~~

15 ~~(4) Temporary food establishments.~~

16 ~~(5) Vending machines.~~

17 ~~c. The amount of money collected in license fees during the~~
18 ~~year.~~

19 ~~d. The amount expended to perform the functions required~~
20 ~~under the agreement, submitted on a form prescribed by the~~
21 ~~department.~~

22 ~~e. Other information the director requests use the data~~
23 ~~system prescribed by the director for activities governed by an~~
24 ~~agreement executed pursuant to this section.~~

25 Sec. 11. Section 137F.4, Code 2017, is amended to read as
26 follows:

27 **137F.4 License required.**

28 A person shall not operate a food establishment or food
29 processing plant to provide goods or services to the general
30 public, or open a food establishment to the general public,
31 until the appropriate license has been obtained from the
32 regulatory authority. Sale of products at wholesale to outlets
33 not owned by a commissary owner requires a food processing
34 plant license. A license shall expire one year from the date
35 of issue. A license is renewable if application for renewal is

1 made prior to expiration of the license or within sixty days
2 of the expiration date of the license. All licenses issued
3 under **this chapter** that are not renewed by the licensee on or
4 before the expiration date shall be subject to a penalty of ten
5 percent per month of the license fee if the license is renewed
6 at a later date.

7 Sec. 12. Section 137F.5, Code 2017, is amended to read as
8 follows:

9 **137F.5 Application for license.**

10 1. An application form prescribed by the department
11 for a license under **this chapter** shall be obtained from
12 the department or from a municipal corporation which is
13 a regulatory authority. A completed application and an
14 application fee of two hundred dollars shall be submitted
15 to the appropriate regulatory authority. However, an
16 application for a license for a farmers market, temporary food
17 establishment for a single event, temporary food establishment
18 for multiple nonconcurrent events, or vending machine is exempt
19 from the application fee requirement under this subsection.

20 2. A person conducting an event shall submit a license
21 application and an application fee of fifty dollars to the
22 appropriate regulatory authority at least sixty days in advance
23 of the event. An "event" for purposes of this subsection
24 does not include a function with ten or more temporary food
25 establishments, a fair as defined in section 174.1, or a
26 farmers market.

27 3. The dominant form of business shall determine the type of
28 license for establishments which engage in operations covered
29 under both the definition of a food establishment and of a food
30 processing plant.

31 4. The regulatory authority where the unit is domiciled
32 shall issue a license for a mobile food unit.

33 ~~An application for renewal of a license shall be made~~
34 ~~at least thirty days before the expiration of the existing~~
35 ~~license.~~

1 Sec. 13. Section 137F.6, subsection 1, Code 2017, is amended
2 to read as follows:

3 1. The regulatory authority shall collect the following
4 annual license fees:

5 a. For a mobile food unit or pushcart, ~~twenty-seven~~ two
6 hundred fifty dollars.

7 b. For a temporary food establishment per fixed location
8 for a single event, ~~thirty-three dollars and fifty cents~~ fifty
9 dollars.

10 c. For a temporary food establishment for multiple
11 nonconcurrent events during a calendar year, one annual
12 license fee of two hundred dollars for each establishment on a
13 countywide basis.

14 ~~e.~~ d. For a vending machine, ~~twenty~~ fifty dollars for the
15 first machine and ~~five~~ ten dollars for each additional machine.

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

21 (1) Annual gross sales of ~~under fifty~~ less than one hundred
22 thousand dollars, ~~sixty-seven dollars and fifty cents~~ one
23 hundred fifty dollars.

24 (2) Annual gross sales of at least ~~fifty~~ one hundred
25 thousand dollars but less than ~~one~~ five hundred thousand
26 dollars, ~~one hundred fourteen dollars and fifty cents~~ three
27 hundred dollars.

28 (3) Annual gross sales of ~~at least one~~ five hundred thousand
29 dollars but less than ~~two hundred fifty thousand~~ dollars, ~~two~~
30 ~~hundred thirty-six~~ dollars and ~~twenty-five~~ cents or more, ~~four~~
31 hundred dollars.

32 ~~(4) Annual gross sales of two hundred fifty thousand dollars~~
33 ~~but less than five hundred thousand dollars~~, ~~two hundred~~
34 ~~seventy-five~~ dollars.

35 ~~(5) Annual gross sales of five hundred thousand dollars or~~

1 ~~more, three hundred three dollars and seventy-five cents.~~

2 ~~e. f.~~ For a food establishment which sells food or food
3 products to consumer customers intended for preparation or
4 consumption off-the-premises, the annual license fee shall
5 correspond to the annual gross food and beverage sales of the
6 food establishment, as follows:

7 (1) Annual gross sales of ~~under ten~~ less than two hundred
8 fifty thousand dollars, forty dollars and fifty cents one
9 hundred fifty dollars.

10 (2) Annual gross sales of at least ~~ten~~ two hundred fifty
11 thousand dollars but less than two seven hundred fifty thousand
12 dollars, one hundred one dollars and twenty-five cents three
13 hundred dollars.

14 (3) Annual gross sales of at least ~~two~~ seven hundred fifty
15 thousand dollars but less than five hundred thousand dollars,
16 one hundred fifty-five dollars and twenty-five cents or more,
17 four hundred dollars.

18 ~~(4) Annual gross sales of at least five hundred thousand~~
19 ~~dollars but less than seven hundred fifty thousand dollars, two~~
20 ~~hundred two dollars and fifty cents.~~

21 ~~(5) Annual gross sales of seven hundred fifty thousand~~
22 ~~dollars or more, three hundred three dollars and seventy-five~~
23 ~~cents.~~

24 ~~f. g.~~ For a food processing plant, the annual license fee
25 shall correspond to the annual gross food and beverage sales of
26 the food processing plant, as follows:

27 (1) Annual gross sales of ~~under fifty~~ less than two hundred
28 thousand dollars, sixty-seven dollars and fifty cents one
29 hundred fifty dollars.

30 (2) Annual gross sales of at least fifty two hundred
31 thousand dollars but less than two hundred fifty thousand
32 million dollars, one hundred thirty-five three hundred dollars.

33 (3) Annual gross sales of at least two hundred fifty
34 thousand million dollars but less than five hundred thousand
35 dollars, two hundred two dollars and fifty cents or more, five

1 hundred dollars.

2 ~~(4) Annual gross sales of five hundred thousand dollars or~~
3 ~~more, three hundred thirty-seven dollars and fifty cents.~~

4 ~~g.~~ h. For a farmers market where ~~potentially hazardous~~
5 time/temperature control for safety food is sold or
6 distributed, one annual license fee of one hundred fifty
7 dollars for each vendor on a countywide basis.

8 i. For a school, three hundred dollars for a production
9 kitchen and two hundred dollars for a serving site.

10 j. For a certificate of free sale or sanitation, thirty-five
11 dollars for the first certificate and ten dollars for each
12 additional identical certificate requested at the same time.

13 ~~h.~~ k. For a food establishment covered by both paragraphs
14 ~~"d" "e" and "e" "f", the license fees assessed shall be an~~
15 ~~amount not to exceed seventy-five percent of the total fees~~
16 ~~applicable under both paragraphs~~ applicant shall pay the
17 licensee fee based on the dominant form of business plus one
18 hundred fifty dollars.

19 l. For an unattended food establishment, the annual license
20 fee shall correspond to the annual gross food and beverage
21 sales, as follows:

22 (1) Annual gross sales of less than one hundred thousand
23 dollars, seventy-five dollars.

24 (2) Annual gross sales of one hundred thousand dollars or
25 more, one hundred fifty dollars.

26 Sec. 14. Section 137F.6, subsection 2, Code 2017, is amended
27 by striking the subsection.

28 Sec. 15. Section 137F.10, Code 2017, is amended to read as
29 follows:

30 **137F.10 Regular inspections.**

31 The appropriate regulatory authority shall provide for the
32 inspection of each food establishment and food processing plant
33 in this state in accordance with [this chapter](#) and with rules
34 adopted pursuant to [this chapter](#) in accordance with chapter
35 17A. A regulatory authority may enter a food establishment

1 or food processing plant at any reasonable hour to conduct
2 an inspection. The manager or person in charge of the food
3 establishment or food processing plant shall afford free
4 access to every part of the premises and render all aid and
5 assistance necessary to enable the regulatory authority to make
6 a thorough and complete inspection. As part of the inspection
7 process, the regulatory authority shall provide an explanation
8 of the violation or violations cited and provide guidance as
9 to actions for correction and elimination of the violation
10 or violations. The regulatory authority shall document the
11 violations as it deems appropriate. A food establishment or
12 food processing plant being inspected pursuant to this section
13 shall provide the regulatory authority with access to records
14 necessary to determine compliance with this chapter and rules
15 adopted pursuant to this chapter. The regulatory authority may
16 take food or environmental samples as necessary to determine
17 compliance with this chapter and rules adopted pursuant to this
18 chapter.

19 Sec. 16. Section 137F.11, Code 2017, is amended to read as
20 follows:

21 **137F.11 Inspection upon complaint.**

22 Upon receipt of a complaint ~~by a customer of a food~~
23 ~~establishment or food processing plant~~ stating facts indicating
24 the premises are in an unsanitary condition of a food
25 establishment or food processing plant are not in compliance
26 with this chapter or the rules adopted pursuant to this
27 chapter, the regulatory authority may conduct an inspection.
28 The regulatory authority shall keep the name of the person
29 making the complaint confidential upon that person's request.

30 Sec. 17. REPEAL. Section 137F.17, Code 2017, is repealed.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to food and consumer safety by changing
35 requirements for the hotel sanitation and food establishment

1 and food processing plants Code chapters.

2 Division I of the bill removes the requirement that a local
3 board of health responsible for enforcing the Iowa hotel
4 sanitation code provide to the director of the department
5 of inspections and appeals information regarding the hotel
6 licenses granted in the year. The division requires a
7 regulatory authority, meaning the department of inspections and
8 appeals or a local board of health, in conducting inspections
9 of hotels to do so in accordance with rules adopted by the
10 department of inspections and appeals. The division provides
11 that licensees may be subject to a penalty of 10 percent of
12 the license fee per month rather than a flat 10 percent upon
13 failure to renew a license on or before the expiration date.
14 The division also changes the license fee schedule for hotel
15 licenses. The division provides that if anyone, rather than
16 just a guest of a hotel, files a complaint that the premises
17 is unsanitary, the regulatory authority must conduct an
18 inspection.

19 Division II of the bill relates to food establishments
20 and food processing plants. The division eliminates a food
21 service operation in the Iowa juvenile home from the definition
22 of food establishment. The division adds a definition for
23 "time/temperature control for safety food" and replaces
24 references to potentially hazardous food with this phrase.
25 The division defines the term "event" as a significant
26 occurrence or happening sponsored by a civic, business,
27 educational, governmental, community, or veterans organization
28 and may include athletic contests. The division modifies
29 the definitions of "vending machine" and "vending machine
30 location".

31 The division eliminates the annual report a municipal
32 corporation responsible for enforcing the food establishments
33 and food processing plants Code chapter must provide the
34 director of inspections and appeals, but requires the municipal
35 corporation to use the data system prescribed by the director.

1 The division requires a food establishment or food
2 processing plant seeking licensure under the Code chapter to
3 renew prior to the time of the expiration of licensure or
4 within 60 days of the expiration date.

5 The division adds a \$200 general application fee
6 for licensure under the Code chapter. This general
7 application fee does not apply to farmers markets, temporary
8 food establishments for a single event, temporary food
9 establishments for multiple nonconcurrent events, or vending
10 machines. However, the division requires a person conducting
11 an event to submit an application and a \$50 application fee
12 to the appropriate regulatory authority 60 days prior to the
13 event. For purposes of this application and application
14 fee, an "event" does not include a function with 10 or more
15 temporary food establishments, a fair as defined in Code
16 section 174.1, or a farmers market.

17 The division changes the license fee schedule for mobile
18 food units or pushcarts, temporary food establishments
19 per fixed location for a single event, temporary food
20 establishments for multiple nonconcurrent events, vending
21 machines, food establishments which prepare or serve food for
22 individual portion service intended for consumption on the
23 premises, food establishments which sell food or food products
24 intended for consumption off the premises, food processing
25 plants, and farmers markets. The division adds new categories
26 of license fees for schools with production kitchens or serving
27 sites, for unattended food establishments, and for certificates
28 of free sale or sanitation.

29 The division provides that the regulatory authority
30 must document violations during regular inspections as it
31 deems appropriate. The division also states that a food
32 establishment or food processing plant being inspected shall
33 provide the regulatory authority access to records necessary to
34 determine compliance and the regulatory authority may take food
35 or environmental samples.

1 The division provides that if any person, rather than
2 a customer, files a complaint that the premises of a food
3 establishment or food processing plant are not in compliance
4 with the food establishments and food processing plants Code
5 chapter, the regulatory authority may conduct an inspection.
6 The bill allows the person filing the complaint to keep their
7 name confidential.

8 The division repeals the Code section subjecting persons in
9 violation of the food establishments and food processing plants
10 Code chapter to a \$100 penalty.