

Senate Study Bill 1121 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
AGRICULTURE AND LAND
STEWARDSHIP BILL)

A BILL FOR

1 An Act relating to the powers and duties of the department of
2 agriculture and land stewardship, including by providing for
3 administration, programs, and regulations, providing fees,
4 providing penalties, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

DEPARTMENTAL ORGANIZATION

Section 1. Section 159.5, subsection 7, Code 2021, is amended to read as follows:

~~7. Establish and maintain a marketing news service bureau in the department which shall, in cooperation with the federal market news and grading division~~ Cooperate with the agricultural marketing service of the United States department of agriculture, to collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced, and handled in the state.

DIVISION II

ANIMALS

PART A

COMMERCIAL ESTABLISHMENTS

Sec. 2. Section 162.2A, subsection 3, paragraph d, Code 2021, is amended by striking the paragraph.

Sec. 3. Section 162.2A, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. A commercial establishment shall not be issued or renewed a state license by the department, unless a person applying for the state license presents the department with a valid, government-issued photo identification, or other form of similar identification approved by the department, as proof of identity that the person may legally act on behalf of the commercial establishment in making the application. The application must be signed by the person under penalty of perjury subject to the penalty provisions of section 162.13, subsection 1. Upon completion of the initial inspection, the issued or renewed state license shall include a unique identification number that is a public record under chapter 22.

PART B

VETERINARY PRACTICE

Sec. 4. Section 169.20, subsection 2, Code 2021, is amended to read as follows:

1 2. The board shall issue certificates to veterinary
2 assistants who have met the educational, experience, and
3 testing requirements as the board shall specify by rule. The
4 A certificate is not a license and does not expire. The A new
5 certificate shall be issued for a three-year period, subject
6 to renewal at the end of each triennium. The board may adopt
7 rules providing for the issuance and renewal of a certificate
8 including the issuance of a new certificate for the balance of
9 a triennium. A certificate may be suspended or revoked, or any
10 other disciplinary action may be taken as specified in section
11 272C.3, subsection 2. All disciplinary actions shall be taken
12 ~~pursuant to~~ in the same manner as provided in section 169.14.

13 DIVISION III

14 COMMODITY PRODUCTION AND SALE

15 PART A

16 LOCAL FARM PRODUCE PROGRAM

17 Sec. 5. NEW SECTION. 190A.11 Definitions.

18 As used in this subchapter, unless the context otherwise
19 requires:

20 1. "*Department*" means the department of agriculture and land
21 stewardship.

22 2. "*Farm source*" means a farmer who produces and sells fresh
23 farm produce grown on the farmer's land or a distributor of
24 fresh farm produce who purchases fresh farm produce directly
25 from such farmer or sells fresh farm produce on behalf of such
26 farmer.

27 3. "*Fresh farm produce*" means vegetables, fruits, or nuts
28 intended for inclusion as part of a school diet, including
29 school meals and snacks as described in section 190A.3, if the
30 vegetables, fruits, or nuts are not processed except for being
31 trimmed, cleaned, dried, sorted, or packaged.

32 4. "*Fund*" means the local farm produce fund created in
33 section 190A.12.

34 5. "*Program*" means the local farm produce program created
35 in section 190A.13.

1 6. "School" means a public school or nonpublic school, as
2 those terms are defined in section 280.2, or that portion of a
3 public school or nonpublic school that provides facilities for
4 teaching any grade from kindergarten through grade twelve.

5 7. "School district" means a school district as described
6 in chapter 274.

7 Sec. 6. NEW SECTION. 190A.12 Local farm produce fund.

8 1. A local farm produce fund is created in the state
9 treasury under the management and control of the department.

10 2. The fund shall include moneys appropriated to the fund
11 by the general assembly. The fund may include other moneys
12 available to and obtained or accepted by the department,
13 including moneys from public or private sources.

14 3. Moneys in the fund are appropriated to support the
15 program in a manner determined by the department, including for
16 reasonable administrative costs incurred by the department.
17 Moneys expended from the fund shall not require further special
18 authorization by the general assembly.

19 4. a. Notwithstanding section 12C.7, interest or earnings
20 on moneys in the fund shall be credited to the fund.

21 b. Notwithstanding section 8.33, moneys credited to the
22 fund that remain unencumbered or unobligated at the end of a
23 fiscal year shall not revert but shall remain available for the
24 purposes designated.

25 Sec. 7. NEW SECTION. 190A.13 Local farm produce program.

26 1. A local farm produce program is created. The program
27 shall be controlled and administered by the department.

28 2. The purpose of the program is to assist schools and
29 school districts in purchasing fresh farm produce.

30 3. The department shall reimburse a school or school
31 district for expenditures incurred by the school or school
32 district during the school year in which the school or school
33 district is participating in the program for purchases of fresh
34 farm produce.

35 4. A school or school district must apply each year to the

1 department to participate in the program according to rules
2 adopted by the department pursuant to chapter 17A.

3 5. To be eligible to participate in the program, a school or
4 school district must purchase the fresh farm produce directly
5 from a farm source as follows:

6 a. Except as provided in paragraph "b", the farm source must
7 be located in this state.

8 b. If the school district shares a border with another
9 state, or the school is part of a school district that shares
10 a border with another state, the farm source may be located
11 in the other state. However, the farm source must be located
12 within thirty miles from the school district's border with that
13 state and the department must approve the purchase.

14 6. The department shall require proof of purchase prior to
15 reimbursing the school or school district for the purchase of
16 fresh farm produce.

17 7. The department may administer the program in cooperation
18 with the department of education and the participating school
19 or school district in which a participating school is located.

20 8. a. The department shall reimburse a participating
21 school or school district that submits a claim as required
22 by the department. The department shall pay the claim on a
23 matching basis with the department contributing one dollar
24 for every three dollars expended by the school or school
25 district. However, a school or school district shall not
26 receive more than one thousand dollars during any year in which
27 it participates in the program.

28 b. Notwithstanding paragraph "a", if the department
29 determines that there are sufficient moneys in the fund to
30 satisfy all claims that may be submitted by schools and school
31 districts, the department shall provide for the distribution
32 of the available moneys in a manner determined equitable by
33 the department, which may include a prorated distribution to
34 participating schools and school districts.

35

PART B

1 FERTILIZERS AND SOIL CONDITIONERS

2 Sec. 8. Section 200.3, subsection 24, Code 2021, is amended
3 by striking the subsection.

4 Sec. 9. Section 200.14, Code 2021, is amended to read as
5 follows:

6 **200.14 Rules.**

7 1. a. ~~The secretary is authorized, after public hearing,~~
8 ~~following due notice, to~~ department may adopt rules setting
9 forth pursuant to chapter 17A providing minimum general
10 safety standards for the design, construction, location,
11 installation, and operation of equipment for storage, handling,
12 transportation by tank truck or tank trailer, and utilization
13 of anhydrous ammonia fertilizers and soil conditioners.

14 ~~a.~~ b. The rules shall be such as are reasonably necessary
15 for the protection and safety of the public and persons using
16 anhydrous ammonia fertilizers or soil conditioners, and shall
17 be in substantial conformity with the generally accepted
18 standards of safety.

19 ~~b.~~ ~~Rules that are in substantial conformity with the~~
20 ~~published standards of the agricultural ammonia institute for~~
21 ~~the design, installation and construction of containers and~~
22 ~~pertinent equipment for the storage and handling of anhydrous~~
23 ~~ammonia, shall be deemed to be in substantial conformity with~~
24 ~~the generally accepted standards of safety.~~

25 ~~2.~~ c. Anhydrous ammonia Fertilizer and soil conditioner
26 equipment shall be installed and maintained in a safe operating
27 condition and in conformity with rules adopted by the secretary
28 department.

29 ~~3.~~ 2. The secretary shall enforce ~~this chapter~~ and, after
30 ~~due publicity and due public hearing,~~ department may adopt such
31 reasonable rules as may be necessary in order to carry into
32 effect the purpose, ~~and intent~~ and to secure the efficient
33 administration, of this chapter.

34 ~~4.~~ 3. This chapter does not prohibit the use of storage
35 tanks smaller than transporting tanks nor the transfer of all

1 kinds of ~~fertilizer including anhydrous ammonia~~ fertilizers
2 or soil conditioners directly from transporting tanks to
3 implements of husbandry, if proper safety precautions are
4 observed.

5 DIVISION IV

6 WEIGHTS AND MEASURES

7 PART A

8 GENERAL

9 Sec. 10. Section 214.1, Code 2021, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 6. "*Weighmaster*" means a person who keeps
12 and regularly uses a commercial weighing and measuring device
13 to accurately weigh objects for others as part of the person's
14 business operated on a profit, cooperative, or nonprofit basis.

15 Sec. 11. Section 214.3, subsection 1, Code 2021, is amended
16 to read as follows:

17 1. ~~The A license issued by the department for the inspection~~
18 of a commercial weighing and measuring device shall expire on
19 December 31 of each year, and for a motor fuel pump on June 30
20 of each year. ~~The amount of the fee due for each license shall~~
21 ~~be as provided in subsection 3, except that the fee for a motor~~
22 ~~fuel pump shall be four dollars and fifty cents if paid within~~
23 ~~one month from the date the license is due.~~

24 Sec. 12. Section 214.3, subsection 3, paragraph e,
25 subparagraph (2), Code 2021, is amended to read as follows:

26 (2) Retail motor fuel pump, ~~nine~~ four dollars and fifty
27 cents.

28 Sec. 13. Section 214.4, subsection 1, unnumbered paragraph
29 1, Code 2021, is amended to read as follows:

30 If the department does not receive payment of the license
31 fee required pursuant to section 214.3 within one month from
32 the due date, the department shall ~~send~~ deliver a notice to
33 the owner or operator of the device. ~~The notice shall be~~
34 ~~delivered by certified mail.~~ The notice shall state all of the
35 following:

1 Sec. 14. Section 214.6, Code 2021, is amended to read as
2 follows:

3 **214.6 Oath Duties of weighmasters weighmaster.**

4 ~~All persons keeping a commercial weighing and measuring~~
5 ~~device, before entering upon their duties as weighmasters, A~~
6 ~~weighmaster shall be sworn before some person having authority~~
7 ~~to administer oaths, to keep their~~ ensure that a commercial
8 weighing and measuring device is correctly balanced, to make
9 true weights, and ~~to~~ shall render a correct account to the
10 person having weighing done.

11 Sec. 15. Section 214.11, Code 2021, is amended to read as
12 follows:

13 **214.11 Inspections — recalibrations — penalty.**

14 1. The department shall provide for annual inspections
15 of all motor fuel pumps, including but not limited to motor
16 fuel blender pumps, licensed under [this chapter](#). Inspections
17 shall be for the purpose of determining the accuracy ~~of the~~
18 ~~pumps' measuring mechanisms, and for such~~ and correctness of
19 motor fuel pumps. For that purpose the department's inspectors
20 may enter upon the premises of any wholesale dealer or retail
21 dealer, ~~as they are defined in [section 214A.1](#), of motor fuel~~
22 ~~or fuel oil within this state.~~

23 2. Upon completion of an inspection, the inspector shall
24 affix the department's seal to the measuring mechanism of the
25 motor fuel pump. The seal shall be appropriately marked,
26 dated, and recorded by the inspector. If the owner of an
27 inspected and sealed motor fuel pump is registered with the
28 department as a servicer in accordance with [section 215.23](#),
29 or employs a person so registered as a servicer, the owner
30 or other servicer may open the motor fuel pump, break the
31 department's seal, recalibrate the measuring mechanism if
32 necessary, and reseal the motor fuel pump as long as the
33 department is notified of the recalibration within forty-eight
34 hours, ~~on a form~~ in a manner provided by the department.

35 ~~2.~~ 3. A person violating a provision of [this section](#) is,

1 upon conviction, guilty of a simple misdemeanor.

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PART B

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MOTOR FUEL

4 Sec. 16. Section 214A.2A, subsection 1, Code 2021, is
5 amended to read as follows:

6 1. Fuel which is sold or is kept, offered, or exposed for
7 sale as kerosene shall be labeled as kerosene. The label
8 shall include the word "kerosene" ~~and a or the~~ designation as
9 either "~~K1~~" or "~~K2~~" "K1 kerosene", and shall indicate that
10 the kerosene is in compliance with the standard specification
11 adopted by A.S.T.M. international specification D3699 (1982).

12 Sec. 17. REPEAL. Section 214A.15, Code 2021, is repealed.

13

PART C

14

INSPECTIONS

15 Sec. 18. Section 215.4, Code 2021, is amended to read as
16 follows:

17 **215.4 Tag for inaccurate or incorrect device — reinspection**
18 **— license fee.**

19 A commercial weighing and measuring device found to be
20 inaccurate or incorrect upon inspection by the department
21 shall be rejected or tagged "condemned until repaired" and
22 the "~~licensed for commercial use~~" inspection sticker shall be
23 removed. If notice is received by the department that the
24 device has been repaired and upon reinspection the device is
25 found to be accurate or correct, ~~the a~~ a license fee ~~shall not~~
26 may be charged for the reinspection. However, a second license
27 fee shall be charged if upon reinspection the device is found
28 to be inaccurate. The device shall be tagged "condemned" and
29 removed from service if a third reinspection fails.

30 Sec. 19. Section 215.7, Code 2021, is amended to read as
31 follows:

32 **215.7 Transactions by false weights or measures.**

33 1. A person shall be deemed to have violated the provisions
34 of this chapter ~~and shall be punished as provided in chapter~~
35 ~~189,~~ if the person does any of the following apply:

1 ~~1. a. The person sells~~ Sells, trades, delivers, charges
2 for, or claims to have delivered to a purchaser an amount
3 of any commodity which is less in weight or measure than
4 that which is asked for, agreed upon, claimed to have been
5 delivered, or noted on the delivery ticket.

6 ~~2. b. The person makes~~ Makes a settlement for or enters
7 a credit, based upon any false weight or measurement, for any
8 commodity purchased.

9 ~~3. c. The person makes~~ Makes a settlement for or enters
10 a credit, based upon any false weight or measurement, for any
11 labor where the price of producing or mining is determined by
12 weight or measure.

13 ~~4. d. The person records~~ Records a false weight or
14 measurement upon the weight ticket or book.

15 2. The department may adopt rules pursuant to chapter 17A
16 that allow for reasonable variations and exceptions for small
17 packages.

18 3. A person who violates this section is guilty of a simple
19 misdemeanor.

20 Sec. 20. Section 215.23, Code 2021, is amended to read as
21 follows:

22 **215.23 Servicer's license.**

23 ~~1. A servicer shall not install, service, or repair a~~
24 ~~commercial weighing and measuring device until the servicer~~
25 ~~has demonstrated that the servicer has available adequate~~
26 ~~testing equipment, and that the servicer possesses a working~~
27 ~~knowledge of all devices the servicer intends to install or~~
28 ~~repair and of all appropriate weights, measures, statutes, and~~
29 ~~rules, as evidenced by passing a qualifying examination to~~
30 ~~be conducted by the department and obtaining a license. The~~
31 ~~secretary of agriculture shall establish by rule pursuant to~~
32 ~~chapter 17A, requirements for and contents of the examination.~~
33 The department may adopt rules pursuant to chapter 17A setting
34 forth qualification requirements for persons applying for a
35 servicer's license, including an examination.

1 establishment include the applicant's identification number,
2 which may be a tax identification number. It also requires a
3 person applying for a state license to present DALs with a form
4 of identification (Code section 162.2A).

5 VETERINARY PRACTICE. The bill provides for the
6 certification of veterinary assistants by the board of
7 veterinary medicine functioning within DALs. Currently,
8 a certificate does not expire. The bill provides that a
9 certificate expires each three-year period (a triennium) and
10 is subject to renewal (Code section 169.20). A veterinary
11 assistant required to be certified is a person employed by a
12 licensed veterinarian to perform certain duties while acting
13 under the veterinarian's direct supervision (Code section
14 169.3(12) and 811 IAC ch. 8).

15 SUBTITLE 4 — LOCAL FARM PRODUCE PROGRAM. The bill creates
16 a local farm produce program to assist schools and school
17 districts purchasing fresh farm produce directly from farmers
18 or distributors of fresh farm produce (Code chapter 190A).
19 DALs may reimburse a school or school district for expenditures
20 on such products to the extent moneys are available to support
21 the program. The available moneys would be allocated during
22 the school year on a matching basis, subject to a \$1,000 cap.
23 The bill also creates a local farm produce fund to support the
24 program.

25 FERTILIZERS AND SOIL CONDITIONERS. The bill authorizes DALs
26 to adopt rules regulating the design, construction, location,
27 installation, and operation of equipment associated with
28 the use of fertilizers and soil conditioners (Code sections
29 200.3 and 200.14). Current law allows DALs to adopt such
30 rules regulating anhydrous ammonia equipment. The bill also
31 eliminates a requirement that such rules be in conformity with
32 the published standards of the agricultural ammonia institute.
33 A person violating such rules is guilty of a simple misdemeanor
34 (Code section 200.18).

35 WEIGHTS AND MEASURES (GENERAL). The bill amends a number

1 of provisions regulating weights and measures, including the
2 inspection of associated devices. The bill reduces the fee
3 for the inspection of motor fuel pumps from \$9 to \$4.50 (the
4 same amount due under current law if the inspection fee is paid
5 early) (Code section 214.3). The bill no longer requires that
6 DALs deliver a late payment notice to an owner or operator of
7 a device by certified mail (Code section 214.4). The bill
8 eliminates a requirement that a weighmaster (a person who keeps
9 and uses a device as part of a business) must take an oath (Code
10 sections 214.1 and 214.6).

11 WEIGHTS AND MEASURES (MOTOR FUEL). The bill revises
12 requirements for the labeling of kerosene (Code section
13 214A.2A). The bill also repeals a provision prohibiting a
14 person from placing gasoline into a receptacle, unless the
15 receptacle states a warning (Code section 214A.15).

16 WEIGHTS AND MEASURES (INSPECTIONS). The bill provides that
17 DALs may but is no longer required to charge a license fee for
18 a device that has been taken out of service due to a repair
19 and reinspected (Code section 215.4). The bill allows DALs
20 to make an exception in a case where a commercial transaction
21 involves a small package, and the person would otherwise be
22 guilty of a simple misdemeanor because the person stated
23 a false weight or measure (Code section 215.7). The bill
24 provides for the regulation of a servicer (a person employed
25 to install, service, or repair a device), by eliminating
26 an examination requirement and allowing DALs to require
27 qualification standards which may include an examination
28 (Code sections 215.1 and 215.23). The bill provides for a
29 two-year rather than annual servicer license and allows DALs to
30 establish the license fee. The annual license fee is currently
31 \$5. The bill eliminates a provision that allows DALs to charge
32 a complaining party an inspection fee, if the complaint was
33 unfounded (Code section 215.3). The bill repeals a provision
34 that authorizes DALs to establish reasonable variances in the
35 weighing and measuring of small packages (Code section 215.8).

S.F. _____ H.F. _____

1 That qualification is incorporated in the amendments to the
2 provision regulating small package transactions (Code section
3 215.7).

4 CRIMINAL PENALTIES. A simple misdemeanor is punishable by
5 confinement for no more than 30 days or a fine of at least \$105
6 but not more than \$855 or by both.