

House File 38 - Introduced

HOUSE FILE 38
BY LOHSE

A BILL FOR

1 An Act authorizing cities to establish self-supported
2 entertainment areas.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **386A.1 Definitions.**

2 As used in this chapter, unless the context requires
3 otherwise:

4 1. "*Alcoholic beverage*" means the same as defined in section
5 123.3.

6 2. "*Council*" means the governing body of a city.

7 3. "*Cultural or entertainment establishment*" means a sporting
8 or concert event venue, performing arts theater, movie theater,
9 museum, convention hall, or enclosed shopping mall.

10 4. "*Department*" means the department of revenue.

11 5. "*Director*" means the director of the department of
12 revenue.

13 6. "*Entertainment area*" or "*area*" means an area designated by
14 ordinance under this chapter and the cultural or entertainment
15 establishments, food establishments, liquor establishments, and
16 lodging providers therein that are subject to the entertainment
17 surcharge in accordance with section 386A.3.

18 7. "*Entertainment tickets*" means all tickets or admissions
19 subject to taxation pursuant to section 423.2, subsection 3.

20 8. "*Food*" means the same as defined in section 137F.1.

21 9. "*Food establishment*" means a food establishment licensed
22 pursuant to chapter 137F, at which food is served or sold at
23 retail. "*Food establishment*" also includes a temporary food
24 establishment defined in section 137F.1.

25 10. "*Licensed premises*" means the same as defined in section
26 123.3.

27 11. "*Liquor establishment*" means a licensed premises in or at
28 which alcoholic beverages are sold at retail.

29 12. "*Lodging*" means the same as defined in section 423A.2.
30 "*Lodging*" does not include lodging exempted from tax pursuant to
31 section 423A.5.

32 13. "*Lodging provider*" means the same as defined in section
33 423A.2.

34 14. "*Property owner*" or "*owner*" means the owner of property,
35 as shown by the transfer books in the office of the county

1 auditor of the county in which the property is located.

2 15. "Retail sale" means the same as defined in section 423.1.

3 16. "Surcharge" means an entertainment surcharge imposed
4 pursuant to this chapter.

5 Sec. 2. NEW SECTION. **386A.2 Authorization.**

6 A city that proposes to create an entertainment area and
7 impose an entertainment surcharge must do so in accordance with
8 the provisions of this chapter.

9 Sec. 3. NEW SECTION. **386A.3 Establishment of an
10 entertainment area — entertainment surcharge — use of
11 revenues.**

12 1. An entertainment area may be created by ordinance of the
13 council in accordance with the provisions of this section. A
14 proposed entertainment area shall meet all of the following
15 requirements:

16 a. The combined attendance at cultural or entertainment
17 establishments, food establishments, liquor establishments, and
18 lodging providers within the proposed entertainment area is
19 reasonably expected to exceed two hundred fifty thousand persons
20 per calendar year within two years of the establishment of the
21 entertainment area.

22 b. The proposed entertainment area consists of contiguous
23 parcels wholly within the boundaries of the city and does not
24 exceed seventy-five acres in total.

25 c. The proposed entertainment area does not include the
26 entire incorporated area of the city.

27 d. The proposed entertainment area consists only of
28 properties zoned for commercial uses or properties within a
29 duly designated historic district, and at least seventy-five
30 percent of the properties must be cultural or entertainment
31 establishments, food establishments, liquor establishments, or
32 lodging providers.

33 e. The proposed entertainment area must be comprised of
34 property related in some manner, including but not limited
35 to present or potential use, physical location, condition,

1 relationship to the area, or relationship to present or potential
2 commercial or other activity in the area, so as to be benefited
3 in any manner, including but not limited to a benefit from
4 present or potential use or enjoyment of the property, by the
5 condition, development, or maintenance of the area or of any
6 improvement or services provided to the area or be comprised of
7 property the owners of which have a present or potential benefit
8 from the condition, development, or maintenance of the area or of
9 any improvement or services provided to the area.

10 *f.* The entertainment area shall be given a descriptive name
11 containing the words "entertainment area".

12 2. The council shall initiate proceedings for the adoption of
13 an ordinance under subsection 6 upon the filing of a petition
14 containing all of the following:

15 *a.* The signatures of at least twenty-five percent of all
16 owners of property within the proposed entertainment area.

17 *b.* A description of the boundaries of the proposed
18 entertainment area, or a consolidated description of the property
19 within the proposed area, along with a map depicting the existing
20 parcels of real estate located in the proposed entertainment
21 area.

22 *c.* The name of the proposed entertainment area.

23 *d.* Subject to the limitations of subsection 4, paragraph "e",
24 a statement of the maximum surcharge rate that may be imposed
25 upon retail sales within the entertainment area.

26 *e.* The purpose of the establishment of the entertainment
27 area, which may be stated generally, or in terms of the
28 relationship of the property within the entertainment area or
29 the interests of the owners of property within the entertainment
30 area, or in terms of the specific or general categories of
31 improvements proposed to be developed for the purposes of the
32 entertainment area, or in terms of the services to be provided
33 within the entertainment area and supported from the revenues of
34 the surcharge, or a combination of such purposes.

35 *f.* A statement of the specified length of time the surcharge

1 shall be imposed for the purposes of the entertainment area,
2 along with any option to renew the surcharge.

3 3. Upon receiving a valid petition for establishment of an
4 entertainment area, the council shall set a time and place for
5 a public hearing on the establishment of the entertainment area,
6 and shall publish notice of the public hearing as provided in
7 section 362.3, and the clerk shall send a copy of the notice
8 by certified mail not less than fifteen days before the hearing
9 to each owner of property within the proposed entertainment area
10 at the owner's address as shown by the records of the county
11 auditor.

12 4. In addition to the time and place of the public hearing on
13 the petition, the notice must state all of the following:

14 a. That a petition has been filed with the council asking
15 that an entertainment area be established.

16 b. The name of the entertainment area.

17 c. The purpose of the entertainment area.

18 d. The property proposed to be included in the entertainment
19 area.

20 e. The maximum surcharge, not to exceed three percent, which
21 may be imposed upon any of the following retail sales within the
22 entertainment area:

23 (1) The retail sales price of food or alcoholic beverages
24 sold at a cultural or entertainment establishment, food
25 establishment, or liquor establishment.

26 (2) The retail sales price of entertainment tickets sold at a
27 cultural or entertainment establishment.

28 (3) The retail sales price for the renting of any lodging.

29 5. At the time and place set in the notice the council
30 shall hear all owners of property in the proposed entertainment
31 area or residents of the city desiring to express their
32 views. The council must wait at least thirty days after the
33 public hearing has been held before the council may adopt an
34 ordinance establishing the entertainment area. The established
35 entertainment area must be comprised of all the property in

1 the proposed entertainment area that the council finds has the
2 relationship or whose owners have the interest described in
3 subsection 1, paragraph "e". Property included in the proposed
4 entertainment area need not be included in the established
5 entertainment area. However, no property may be included in
6 the entertainment area that was not included in the proposed
7 entertainment area until the council has held another hearing
8 after the council has published and mailed the same notice as
9 required in subsections 3 and 4 on the original petition to the
10 owners of the additional property, or has caused a notice of
11 the inclusion of the property to be personally serviced upon
12 each owner of the additional property, or has received a written
13 waiver of notice from each owner of the additional property.

14 6. Adoption of the ordinance establishing the entertainment
15 area requires the affirmative vote of three-fourths of all the
16 members of the council, or in cities having three members of
17 the council, the affirmative vote of two members. However,
18 if a remonstrance has been filed with the clerk signed by
19 at least twenty-five percent of all owners of property within
20 the proposed entertainment area representing ownership of at
21 least twenty-five percent or more of the total number of
22 cultural or entertainment establishments, food establishments,
23 liquor establishments, and lodging providers in the proposed
24 entertainment area, the adoption of the ordinance requires a
25 unanimous vote of the council.

26 7. The clerk shall cause a copy of the ordinance to be filed
27 in the office of the county recorder of each county in which any
28 property within the entertainment area is located.

29 8. At any time prior to the final adoption of an ordinance
30 establishing an entertainment area, the entire matter of
31 establishing such entertainment area shall be withdrawn from
32 council consideration if a petition objecting to establishing
33 such entertainment area is filed with the clerk containing
34 signatures of at least forty percent or more of all owners of
35 property in the proposed entertainment area.

1 9. The adoption of an ordinance establishing an entertainment
2 area is a legislative determination that the property within the
3 entertainment area has the relationship or its owners have the
4 interest required under subsection 1, paragraph "e", and includes
5 all of the property within the entertainment area which has that
6 relationship or the ownership of which has that interest in the
7 entertainment area.

8 10. Any resident or property owner of the city may appeal the
9 action and the decisions of the council, including the creation
10 of the entertainment area and imposition of a surcharge for
11 the entertainment area, to the district court of the county
12 in which any part of the entertainment area is located, within
13 thirty days after the date upon which the ordinance creating the
14 entertainment area becomes effective, but the action and decision
15 of the council are final and conclusive unless the court finds
16 that the council exceeded its authority. An action shall not be
17 brought questioning the regularity of the proceedings pertaining
18 to the establishment of the entertainment area or the validity
19 of the entertainment area, or the propriety of the inclusion or
20 exclusion of any property within or from the entertainment area,
21 or the ability of the city to impose the surcharge in accordance
22 with the ordinance establishing the entertainment area, after
23 thirty days from the date on which the ordinance creating the
24 entertainment area becomes effective.

25 11. The surcharge imposed by the ordinance establishing the
26 entertainment area shall be in addition to the state sales tax
27 imposed pursuant to chapter 423, subchapter II, the state-imposed
28 and locally imposed hotel and motel tax pursuant to chapter 423A,
29 and the local sales and services tax imposed pursuant to chapter
30 423B.

31 12. a. Within ten days of the effective date of the
32 ordinance establishing the area and imposing the surcharge, the
33 county auditor of the county with the largest parcel in the
34 entertainment area shall give written notice to the director by
35 sending a copy of the ordinance to the director.

1 b. A surcharge shall be imposed either January 1 or July
2 1 following the notification of the director but not sooner
3 than ninety days following the effective date of the ordinance
4 imposing the surcharge and not sooner than sixty days following
5 notice to sellers with a place of business, as defined in
6 section 423.1, in the entertainment area and to lodging providers
7 operating lodging in the entertainment area.

8 c. A surcharge shall be repealed only on June 30 or December
9 31 but not sooner than ninety days following repeal of the
10 ordinance. At least forty days before the repeal of the
11 surcharge, the council shall provide notice of the action by
12 certified mail to the director.

13 13. a. An entertainment area may be dissolved and terminated
14 by action of the council rescinding the ordinance creating the
15 area and any subsequent ordinances amending the area by an
16 affirmative vote of three-fourths of all members of the council,
17 or in cities having three members of the council, the affirmative
18 vote of two members. However, if a remonstrance has been filed
19 with the clerk signed by at least twenty-five percent of all
20 owners of property within the area representing ownership of
21 at least twenty-five percent or more of the total number of
22 cultural or entertainment establishments, food establishments,
23 liquor establishments, and lodging providers in the area, the
24 rescission of the ordinance creating the area, and any subsequent
25 ordinances amending the area, requires a unanimous vote of the
26 council.

27 b. At any time prior to action of the council rescinding
28 the ordinance creating the entertainment area, and any subsequent
29 ordinances amending the area, the entire matter of dissolving an
30 area shall be withdrawn from council consideration if a petition
31 is filed with its clerk containing the signatures of at least
32 forty percent of all owners of property within the area or
33 signatures which together represent ownership of at least forty
34 percent or more of the total number of cultural or entertainment
35 establishments, food establishments, liquor establishments, and

1 lodging providers within the area.

2 14. The ordinance creating an entertainment area may be
3 amended, including to add property to the area, remove property
4 from the area, extend the duration of the area, or alter the
5 amount of the entertainment surcharge, by the same procedure as
6 for the establishment of the entertainment area and imposition of
7 the surcharge.

8 15. a. Upon the adoption of an ordinance establishing an
9 entertainment area, the city shall establish an entertainment
10 area fund, and upon remittance of the revenues from the state
11 surcharge revenue fund to the city under section 386A.5, the
12 revenues shall be deposited into the city's entertainment area
13 fund.

14 b. Surcharge revenues deposited into an entertainment area
15 fund of the city shall only be used for the following, as
16 applicable:

17 (1) For deposit into the debt service fund in section 384.4.

18 (2) For deposit into the capital improvements fund in section
19 384.7.

20 (3) For the purposes described in section 384.3A, subsection
21 3, paragraph "b", "c", "e", "f", or "g", including city
22 operational expenses for public safety services within the
23 entertainment area.

24 Sec. 4. NEW SECTION. **386A.4 Administration of surcharge.**

25 1. The director shall administer the surcharge imposed
26 pursuant to this chapter as nearly as possible in conjunction
27 with the administration of state sales tax laws. The director
28 shall provide appropriate forms, or provide space on the regular
29 state tax forms, for reporting surcharge liability.

30 2. a. Section 422.25, subsection 4, sections 422.30, 422.67,
31 and 422.68, section 422.69, subsection 1, sections 422.70,
32 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection
33 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35,
34 423.37 through 423.42, and 423.47, consistent with the provisions
35 of this chapter, apply with respect to the surcharge authorized

1 under this chapter, in the same manner and with the same effect
2 as retail sales taxes within the meaning of those statutes.
3 The director may require all persons who are engaged in the
4 business of deriving any sales price subject to a surcharge under
5 this chapter to register with the department. All surcharges
6 collected under this chapter are deemed to be held in trust
7 for the state of Iowa and the cities imposing the surcharges.
8 Local officials shall confer with the director for assistance in
9 drafting the ordinance imposing the surcharge. A certified copy
10 of the ordinance shall be filed with the director as soon as
11 possible after passage.

12 b. Frequency of deposits and monthly reports of the surcharge
13 with the department of revenue are governed by the provisions
14 in section 423.31. Local surcharge collections shall not be
15 included in computation of the total tax to determine frequency
16 of filing under section 423.31.

17 c. The director shall apply a boundary change of an
18 entertainment area to the imposition or collection of that
19 surcharge only on the first day of a calendar month which occurs
20 sixty days or more after the director has given notice of the
21 boundary change to sellers with a place of business, as defined
22 in section 423.1, in the entertainment area and to lodging
23 providers operating lodging in the entertainment area.

24 3. a. The director, in consultation with local officials,
25 shall collect and account for the surcharge. The director shall
26 certify each month the amount of the surcharge receipts and any
27 interest and penalties to be credited to the city account in
28 the state surcharge revenue fund established in section 386A.5.
29 Local authorities shall not require any permit not required by
30 the director.

31 b. All surcharge revenues and interest and penalties received
32 or refunded one hundred eighty days or more after the date on
33 which the city repeals the surcharge shall be deposited in or
34 withdrawn from the general fund of the state.

35 4. Each city that has established an entertainment area

1 under this chapter shall assist the department in identifying
2 new establishments required to impose the surcharge in the
3 entertainment area. This process shall be ongoing until the
4 surcharge is repealed.

5 Sec. 5. NEW SECTION. **386A.5 State surcharge revenue fund —**
6 **accounts.**

7 1. A state surcharge revenue fund is established in the state
8 treasury under the control of the department consisting of the
9 surcharge revenues collected within each entertainment area and
10 deposited in the fund pursuant to section 386A.4. Revenues
11 deposited in the fund are appropriated to the department for the
12 purposes of this section.

13 2. An entertainment area account is created within the fund
14 for each city creating an entertainment area under this chapter.

15 3. The department shall deposit the revenues described in
16 subsection 1 that were collected in a month beginning on or after
17 the entertainment area's commencement date into the appropriate
18 entertainment area account in the fund.

19 4. All revenues in each entertainment area account within
20 the fund shall be remitted monthly by the department to the
21 city that established the entertainment area for deposit in the
22 entertainment area fund of the city.

23 5. The department shall adopt rules pursuant to chapter 17A
24 necessary to administer the department's responsibilities under
25 this chapter.

26 Sec. 6. Section 423A.5A, subsection 3, Code 2025, is amended
27 to read as follows:

28 3. Unless otherwise provided in this section, the
29 state-imposed tax under section 423A.3 and any locally imposed
30 tax under section 423A.4 shall be collected by the lodging
31 provider from the user of that lodging and shall be remitted to
32 the department. The lodging provider shall add the state-imposed
33 tax to the sales price of the lodging and the tax, when
34 collected, shall be stated as a distinct item, separate and apart
35 from the sales price of the lodging and from the locally imposed

1 tax under section 423A.4 or entertainment surcharge under chapter
2 386A, if any. The lodging provider shall add the locally imposed
3 tax, if any, to the sales price of the lodging and the tax, when
4 collected, shall be stated as a distinct item, separate and apart
5 from the sales price of the lodging and from the state-imposed
6 tax or entertainment surcharge under chapter 386A, if any.

7 EXPLANATION

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

10 This bill authorizes cities to establish entertainment areas
11 and to impose an entertainment surcharge within the area.
12 Under the bill, following the filing of a petition for the
13 establishment of an entertainment area (area) and holding a
14 public hearing, a city may establish an area by ordinance for
15 the purpose of imposing an entertainment surcharge (surcharge).
16 The city council shall initiate proceedings for adoption of the
17 ordinance upon signatures of at least 25 percent of the owners of
18 property within the proposed entertainment area. The proposed
19 area must meet all of the following requirements: (1) the
20 combined attendance at cultural or entertainment establishments,
21 food establishments, liquor establishments, and lodging providers
22 within the proposed area is reasonably expected to exceed 250,000
23 persons per calendar year within two years; (2) the area consists
24 of contiguous parcels wholly within the boundaries of the city
25 and does not exceed 75 acres; (3) the area does not include
26 the entire incorporated area of the city; (4) the area consists
27 only of properties zoned for commercial uses or properties within
28 a designated historic district, and at least 75 percent of the
29 properties must be cultural or entertainment establishments, food
30 establishments, liquor establishments, or lodging providers; (5)
31 the area must be comprised of property related in some manner;
32 and (6) the area must be given a descriptive name.

33 Adoption of the ordinance establishing the area requires the
34 affirmative vote of three-fourths of all the members of the
35 council, or in cities having three members of the council, the

1 affirmative vote of two members. However, if a remonstrance
2 has been filed with the clerk signed by at least 25 percent
3 of all owners of property within the proposed area representing
4 ownership of at least 25 percent or more of the total number
5 of cultural or entertainment establishments, food establishments,
6 liquor establishments, and lodging providers in the proposed
7 area, the adoption of the ordinance requires a unanimous vote
8 of the council. At any time prior to the final adoption of an
9 ordinance establishing an area, the entire matter of establishing
10 such area shall be withdrawn from council consideration if a
11 petition objecting to establishing such area is filed with the
12 clerk containing signatures of at least 40 percent or more
13 of all owners of property in the proposed area or signatures
14 which together represent ownership of 40 percent or more of
15 the total number of cultural or entertainment establishments,
16 food establishments, liquor establishments, and lodging providers
17 within the proposed entertainment area.

18 The surcharge authorized under the bill shall be a rate
19 not to exceed 3 percent, which shall be imposed upon any of
20 the following within the area: (1) the retail sales price of
21 food or alcoholic beverages sold at a cultural or entertainment
22 establishment, food establishment, or liquor establishment; (2)
23 the sales price of all sales of entertainment tickets sold at a
24 cultural or entertainment establishment; or (3) the sales price
25 for the renting of any lodging.

26 The bill specifies that the surcharge shall be in addition
27 to the state sales tax imposed pursuant to Code chapter 423,
28 subchapter II, the state-imposed and locally imposed hotel and
29 motel tax pursuant to Code chapter 423A, and the local sales
30 and services tax imposed pursuant to Code chapter 423B. The bill
31 establishes a process and timing for imposition or repeal of the
32 surcharge and for dissolution of the area.

33 The bill specifies the director of the department of
34 revenue shall administer the surcharge as nearly as possible in
35 conjunction with the administration of the state sales tax. The

1 bill specifies that administrative and enforcement laws relating
2 to the sales tax apply to surcharges imposed under the bill. The
3 bill requires each city to assist the department in identifying
4 new establishments required to impose the surcharge in the area.
5 The bill creates a state surcharge revenue fund in the
6 state treasury under the control of the department of revenue
7 consisting of surcharge revenues collected within each area. The
8 bill creates an area account for each city creating an area. The
9 bill requires the revenues be deposited into the appropriate area
10 account. All revenues in each area account shall be remitted
11 monthly by the department to the city that established the
12 area for deposit in the entertainment area fund of the city.
13 Surcharge revenues deposited into the city's entertainment area
14 fund may be deposited in any of the following funds: the debt
15 service fund in Code section 384.4, or the capital improvements
16 fund in Code section 384.7. If the surcharge revenues are not
17 deposited in any of the above-mentioned funds, the surcharge
18 revenues may also be used for any of the purposes described under
19 Code section 384.3A(3)(b), (c), (e), (f), or (g).