

Senate File 494 - Introduced

SENATE FILE 494
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SF 161)

A BILL FOR

1 An Act prohibiting the regulation of certain residential gardens
2 by state agencies and local governments.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. **137H.1 Short title.**

2 This chapter shall be known and may be cited as the "*Freedom*
3 *to Garden Act*".

4 Sec. 2. NEW SECTION. **137H.2 Definitions.**

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Garden food*" means vegetables, herbs, fruits, flowers,
8 pollinator plants, leafy greens, and other edible plants.

9 2. "*Local government*" includes but is not limited to a
10 county, special district, township, or city as provided in Title
11 IX.

12 3. "*Residential garden*" means any plot of ground or elevated
13 soil bed located as part of a yard attached to a residential
14 property where garden food is produced and harvested primarily
15 for the benefit of the individual who owns or leases the
16 residential property or the members of the individual's family,
17 household, or guests.

18 4. "*Residential property*" means real property consisting of
19 not more than two family dwelling units, at least one of which is
20 occupied as a principal place of residence.

21 5. "*Sale*" means any transfer, exchange, or barter,
22 conditional or otherwise, in any manner or by any means
23 whatsoever, for consideration, including but not limited to any
24 such transfer, exchange, or barter on a subscription basis.

25 6. "*State agency*" means a unit of state government, which is
26 an authority, board, commission, committee, council, department,
27 or independent agency as defined in section 7E.4, including but
28 not limited to each principal central department enumerated in
29 section 7E.5.

30 Sec. 3. NEW SECTION. **137H.3 General principle — public**
31 **policy.**

32 1. As a general principle, each individual has a natural,
33 inherent, and unalienable right to save and exchange seeds and
34 the right to grow, raise, harvest, produce, and consume the
35 food of the individual's own choosing for the individual's own

1 nourishment, sustenance, bodily health, and well-being, as long
2 as the individual does not commit trespass, theft, poaching, or
3 other abuse of private property rights, public land, or natural
4 resources.

5 2. The public policy of this state is to recognize and
6 encourage the development and expansion of the sustainable use
7 of residential gardens, including the use of such properties to
8 produce and harvest garden food.

9 Sec. 4. NEW SECTION. **137H.4 Residential garden regulation**
10 **— prohibition.**

11 A state agency or local government shall not adopt or
12 continue in effect any regulation, including in the form of
13 a rule, ordinance, or resolution, that prohibits an individual
14 from establishing, maintaining, or benefiting from a residential
15 garden located on residential property owned or leased by that
16 individual. A regulation in violation of this section is void
17 and unenforceable.

18 Sec. 5. NEW SECTION. **137H.5 Applicability.**

19 This chapter does not apply to any of the following:

20 1. The use of residential property, if the titleholder or
21 leaseholder of the residential property is a state agency or
22 local government.

23 2. The use of residential property governed by a contract
24 entered into by the titleholder or lessee of the residential
25 property and a state agency or local government.

26 3. Garden food produced for purposes of sale.

27 4. A regulation adopted in compliance with any of the
28 following:

29 a. Chapter 190C.

30 b. Chapter 199, 200, 200A, or 206.

31 c. Chapter 317.

32 5. A plant growing in easement, in a ditch, or in a location
33 that obstructs traffic, including a view of traffic.

34 6. A plant that invades onto a neighbor's property.

35 7. A plant used to produce a controlled substance as defined

1 in section 124.101, a precursor substance as described in section
2 124B.2, or cannabis.

3 8. A plant used to produce a substance used for medical or
4 psychological purposes.

5 9. A plant that is competitive, persistent, or pernicious,
6 and that may directly or indirectly cause damage to a crop or
7 other useful plant, or that may injure an animal or fish, that
8 may obstruct irrigation or drainage, or that poses a threat to
9 the public health.

10 10. A practice found by a court to be a public or private
11 nuisance, or that otherwise interferes with another person's
12 legal enjoyment of property.

13 11. A regulation that does not target the use of a
14 residential garden or a gardening practice, even though the
15 regulation may impact upon its use, including but not limited
16 to the construction and use of a structure, equipment, setback
17 requirements, water use restrictions, or public safety.

18 Sec. 6. Section 331.301, Code 2025, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 27. A county shall not adopt or continue in
21 effect any regulation, including in the form of an ordinance
22 or resolution, that prohibits an individual from establishing,
23 maintaining, or benefiting from a residential garden as provided
24 in chapter 137H.

25 Sec. 7. Section 364.3, Code 2025, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 20. A city shall not adopt or continue in
28 effect any regulation, including in the form of an ordinance
29 or resolution, that prohibits an individual from establishing,
30 maintaining, or benefiting from a residential garden as provided
31 in chapter 137H.

32 **EXPLANATION**

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

35 **GENERAL.** This bill prohibits a state agency or local

1 government from adopting or continuing in effect any regulation
2 that prohibits an individual from establishing, maintaining,
3 or benefiting from a residential garden located on residential
4 property owned or leased by that individual. Any such regulation
5 is void and unenforceable. Under the bill, "residential
6 property" includes real property consisting of not more than two
7 family dwelling units.

8 RESTRICTIONS. In order to be protected from regulation, a
9 residential garden must meet certain requirements. The garden
10 must be used to produce vegetables, herbs, fruits, flowers,
11 pollinator plants, leafy greens, and other edible plants and must
12 be part of a yard attached to an occupied residential property.
13 The garden food must be produced and harvested primarily for
14 the benefit of the individual who owns or leases the residential
15 property or the members of the individual's family, household, or
16 guests.

17 APPLICABILITY. The protection from regulation does not apply
18 in a number of circumstances including to the use of residential
19 property if the state agency or local government is a titleholder
20 or leaseholder, or if the management of the residential property
21 is governed under a contract with the state agency or local
22 government. The protection does not apply if the garden food
23 is produced for purposes of sale. The protection does not
24 apply to a number of state regulations in effect that govern
25 organic food production, including a number of regulations
26 administered and enforced by the department of agriculture
27 and land stewardship relating to seeds, fertilizers and soil
28 conditioners, or pesticides (although certain local government
29 preemption statutes exist for these items), or to the control of
30 noxious weeds. The protection does not apply to a plant that
31 is growing in an easement or ditch, that obstructs traffic, or
32 that invades neighboring property. Finally, the protection does
33 not apply to a number of plant species, including a plant used
34 to produce a controlled substance or used to produce a medical
35 or psychological substance; to a plant that may cause damage to

1 another plant or an animal, or that obstructs water flow or poses
2 a public health threat; to a practice that constitutes a public
3 or private nuisance; or to a regulation that does not target
4 the use of a residential garden, even though the regulation may
5 impact upon the garden's use.

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