

**EIGHTY-SIXTH GENERAL ASSEMBLY
2016 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

MARCH 30, 2016

**HOUSE AMENDMENT TO
SENATE FILE 2228**

S-5104

1 Amend Senate File 2228, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, after line 25 by inserting:
4 <Sec. _____. Section 322.2, subsection 7, Code 2016,
5 is amended to read as follows:
6 7. "Engaged in the business" means doing any of the
7 following acts for the purpose of the sale of motor
8 vehicles at retail: acquiring, selling, exchanging,
9 holding, offering, displaying, brokering, accepting on
10 consignment, conducting a retail auction, advertising
11 as being engaged in any of those acts, or acting as an
12 agent for the purpose of doing any of those acts. A
13 person selling at retail more than six motor vehicles
14 during a twelve-month period may be presumed to be
15 engaged in the business.
16 Sec. _____. Section 322.3, subsection 3, Code 2016,
17 is amended to read as follows:
18 3. Subsections 1, and 2, and 16 shall not be
19 construed to require the separate licensing of persons
20 employed as salespersons of motor vehicles by a retail
21 motor vehicle dealer. However, the department may
22 promulgate reasonable rules as necessary for the proper
23 identification of persons employed as salespersons.
24 Sec. _____. Section 322.3, subsection 12, Code 2016,
25 is amended to read as follows:
26 12. A person who has been convicted of a fraudulent
27 practice, has been convicted of three or more
28 violations of section 321.92, subsection 2, or section
29 321.99, has been convicted of three or more violations
30 of subsection 16 of this section in the previous
31 three-year period, or has been convicted of any other
32 indictable offense in connection with selling or other
33 activity relating to motor vehicles, in this state or
34 any other state, shall not for a period of five years
35 from the date of conviction be an owner, salesperson,

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1 employee, officer of a corporation, or representative
2 of a licensed motor vehicle dealer or represent
3 themselves as an owner, salesperson, employee, officer
4 of a corporation, or representative of a licensed motor
5 vehicle dealer.

6 Sec. _____. Section 322.3, Code 2016, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 16. A motor vehicle dealer or
9 wholesaler licensed under this chapter shall not sell,
10 loan, rent, lease, or charge a fee for the use of the
11 license to another person for the purpose of allowing
12 the person to engage in the business of selling motor
13 vehicles.>

14 2. Page 3, lines 5 and 6, by striking <included in
15 any retail installment contract> and inserting <clearly
16 and conspicuously disclosed in any motor vehicle
17 purchase agreement>

18 3. Title page, line 1, after <dealers> by inserting
19 <and wholesalers>

20 4. Title page, line 4, after <title,> by inserting
21 <the use of licenses and advertisements,>

22 5. Title page, line 5, by striking <a penalty> and
23 inserting <penalties>

24 6. By renumbering as necessary.

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HOUSE AMENDMENT TO
SENATE FILE 2273

S-5105

1 Amend Senate File 2273, as passed by the Senate, as
2 follows:

3 1. By striking everything after the enacting clause
4 and inserting:

5 <Section 1. Section 10A.104, subsection 12, Code
6 2016, is amended to read as follows:

7 12. Administer inspections and licensing of hotels
8 and home ~~food establishments~~ bakeries.

9 Sec. 2. Section 137D.1, subsections 3 and 4, Code
10 2016, are amended to read as follows:

11 3. "~~Home food establishment~~" "Home bakery" means
12 a business on the premises of a residence in which
13 prepared food is created for sale or resale, for
14 consumption off the premises, if the business has
15 gross annual sales of prepared food of less than
16 ~~twenty thirty-five~~ thirty-five thousand dollars. However, a ~~home~~
17 ~~food establishment~~ "home bakery" does not include a
18 residence in which food is prepared to be used or
19 sold by churches, fraternal societies, charitable
20 organizations, or civic organizations.

21 4. "Prepared food" means soft pies, bakery
22 products with a custard or cream filling, or ~~any~~
23 ~~other potentially hazardous~~ baked goods that are a
24 time/temperature control for safety food. "Prepared
25 food" does not ~~mean nonhazardous~~ include baked goods
26 that are not a time/temperature control for safety
27 food, including but not limited to breads, fruit pies,
28 cakes, or other nonhazardous pastries that are not a
29 time/temperature control for safety food.

30 Sec. 3. Section 137D.1, Code 2016, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. 5. "Time/temperature control
33 for safety food" means a food that requires time and
34 temperature controls for safety to limit pathogenic
35 microorganism growth or toxin formation.

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1 Sec. 4. Section 137D.2, Code 2016, is amended to
2 read as follows:

3 137D.2 Licenses and inspections.

4 1. A person shall not open or operate a home ~~food~~
5 ~~establishment~~ bakery until a license has been obtained
6 from the department of inspections and appeals.

7 The department shall collect a fee of thirty-three
8 dollars and seventy-five cents for a license. After
9 collection, the fees shall be deposited in the general
10 fund of the state. A license shall expire one year
11 from date of issue. A license is renewable.

12 2. A person shall not sell or distribute from
13 a home ~~food establishment~~ bakery if the home ~~food~~
14 ~~establishment~~ bakery is unlicensed, the license of the
15 home ~~food establishment~~ bakery is suspended, or the
16 food fails to meet standards adopted for such food by
17 the department.

18 3. An application for a license under this chapter
19 shall be made upon a form furnished by the department
20 and shall contain the items required by it according to
21 rules adopted by the department.

22 4. The department shall regulate, license, and
23 inspect home ~~food establishments~~ bakeries according to
24 standards adopted by rule.

25 5. The department shall provide for the periodic
26 inspection of a home ~~food establishment~~ bakery. The
27 inspector may enter the home ~~food establishment~~ bakery
28 at any reasonable hour to make the inspection. The
29 department shall inspect only those areas related to
30 preparing food for sale.

31 6. The department shall regulate and inspect food
32 prepared at a home ~~food establishment~~ bakery according
33 to standards adopted by rule. The inspection may
34 occur at any place where the prepared food is created,
35 transported, or stored for sale or resale.

1 Sec. 5. Section 137D.3, Code 2016, is amended to
2 read as follows:

3 137D.3 Penalty.

4 A person who violates a provision of this chapter,
5 including a standard adopted by departmental rule,
6 relating to home ~~food establishments~~ bakeries or
7 prepared foods created in a home ~~food establishment~~
8 bakery, is guilty of a simple misdemeanor. Each day
9 that the violation continues constitutes a separate
10 offense.

11 Sec. 6. Section 137D.4, Code 2016, is amended to
12 read as follows:

13 137D.4 Injunction.

14 A person operating a home ~~food establishment~~
15 bakery or selling prepared foods created at a home
16 ~~food establishment~~ bakery in violation of a provision
17 of this chapter may be restrained by injunction
18 from further operating that home ~~food establishment~~
19 bakery. If an imminent health hazard exists, the
20 home ~~food establishment~~ bakery must cease operation.
21 Operation shall not be resumed until authorized by the
22 department.

23 Sec. 7. Section 137D.6, Code 2016, is amended to
24 read as follows:

25 137D.6 Conflicts with state building code.

26 Provisions of this chapter, including standards
27 for home ~~food establishments~~ bakeries adopted by the
28 department, in conflict with the state building code,
29 as adopted pursuant to section 103A.7, shall not apply
30 where the state building code has been adopted or when
31 the state building code applies throughout the state.

32 Sec. 8. Section 137D.8, subsections 1 and 3, Code
33 2016, are amended to read as follows:

34 1. The person's home ~~food establishment~~ bakery does
35 not conform to a provision of this chapter or a rule

1 adopted pursuant to this chapter.

2 3. The person conducts an activity constituting a
3 criminal offense in the home ~~food establishment~~ bakery
4 and is convicted of a serious misdemeanor or a more
5 serious offense as a result.

6 Sec. 9. Section 137F.1, subsection 7, paragraph d,
7 Code 2016, is amended to read as follows:

8 d. Premises which are a home ~~food establishment~~
9 bakery pursuant to chapter 137D.>

10 2. Title page, by striking lines 1 through 3 and
11 inserting <An Act relating to licensure of home food
12 establishments.>

RECEIVED FROM THE HOUSE



SF 2205 – School Student Varsity Sports Eligibility Under Open Enrollment (LSB5839SV.1)
Analyst: John Parker (Phone: 515-725-2249) (john.parker@legis.iowa.gov)
Fiscal Note Version – As amended by House amendment **S-5103**

Description

Senate File 2205, as amended by House amendment **S-5103**, expands the definition of a school age resident to include a child that is physically present in a district for the purpose of participating in a regional, state, or national athletic league.

Background

Currently, students participating in an athletic league are not considered residents and must pay tuition equal to the district cost per pupil.

Assumptions

Current assumptions include:

- Students participating in athletic leagues are currently not residents of the district because their parent/guardian is typically a nonresident of Iowa.
- The United States Hockey League (USHL) is the only athletic league, with children 18 or younger, that will attend high school in Iowa.
- There are currently 15 to 24 players on USHL rosters that will be included in the certified enrollment count on October 3, 2016.
- The state cost per pupil is \$6,591.

Fiscal Impact

The State General Fund impact of including the students participating in the athletic leagues in the certified enrollment could be minimal, or as much as \$87,615 to \$140,184 for FY 2018. The bill would increase the appropriation for FY 2018, replacing tuition dollars with a mix of State General Fund dollars and local property tax dollars. The impact on property taxes statewide is estimated at \$11,250 to \$18,000 for FY 2018.

Sources

United States Hockey League
Iowa Department of Education
LSA analysis and calculations

/s/ Holly M. Lyons

March 29, 2016

The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.



SF 2306 – Disaster Response, Out-of-State Businesses (LSB5105SV)
Analyst: Jeff Robinson (Phone: 515-281-4614) (jeff.robinson@legis.iowa.gov)
Fiscal Note Version – New

Description

Senate File 2306 establishes the Facilitating Business Rapid Response to State-Declared Disasters Act. The bill provides an exemption from specified Iowa tax, fee, licensing, registration, and other filing requirements for out-of-state companies and workers. The exemption applies to work done during a defined disaster response period and the work performed must be related to critical infrastructure damaged, impaired, or destroyed as the result of a state disaster or emergency.

A “disaster response period” is defined as a period of time beginning 10 days prior to the date a disaster is declared by the Governor of Iowa or the President of the United States and ending 60 days after the disaster or emergency declaration ends.

“Critical infrastructure” is defined as real property, personal property, and equipment associated with the following networks and systems:

- Communications.
- Electric generation, transmission, and distribution.
- Gas distribution.
- Water pipelines.

The bill is effective on enactment.

Background

Iowa Code section **29C.6** describes the procedure for a disaster declaration by the Governor. A disaster declaration is limited in duration to 30 days. However, the Governor may extend existing declarations for additional 30-day periods.

A **database** of disasters declared by the Iowa Governor is maintained by the Department of Homeland Security and Emergency Management. For calendar year 2010 through 2015 there were 125 weather-related disaster declarations issued by the Governor. Sixteen of those events were also declared disasters through Presidential declaration. The Iowa database does not contain information on the financial severity of these declared disasters.

The Federal Emergency Management Agency (FEMA) maintains a **database** covering Presidential disaster declarations. That database contains information on the dollar amount of public infrastructure repair costs approved for federal aid cost-share, as well as the type of project approved for federal disaster aid. While the FEMA database provides information covering the financial severity and type of property damaged for each declared disaster, it is not a perfect dataset for this fiscal estimate. For use in determining the fiscal implications of this bill, the federal database has the following limitations:

- The dataset does not contain information on damage to critical infrastructure owned and maintained by private companies.
- The dataset does not contain information on critical infrastructure owned by public entities where the repair or replacement expense was covered by insurance.

- The dataset contains information that is not related to critical infrastructure.
- The financial information is not limited to the time frame contemplated by the bill (60 days after the end of the Governor's disaster declaration).

Assumptions

- The fiscal estimate is based on the available data for 16 FEMA Presidential major disasters declared for Iowa from 2010 through 2015. The FEMA database contains totals for the federal public assistance grants awarded in response to each declared disaster. Only the costs associated with projects categorized as emergency projects and damage to public utilities are used in the estimate. Across the 16 projects, a total of \$227.1 million in repair projects was approved by FEMA for emergency repair and for public utility repair.
- Adjusted for inflation, the \$227.1 million equals \$240.9 million and the average cost for emergency and public utility repair cost is \$15.1 million for President-declared disasters.
- In addition to the federal disasters, from 2010 through 2015 there were a total of 109 weather-related disasters declared by the Iowa Governor that were not also President-declared disasters. Disasters declared by the Iowa Governor are assumed to be less severe in nature. To adjust for severity, an average cost per emergency equal to 10.0% of the Presidential emergencies is used (\$1.5 million).
- Using this average, the assumed damage for the 109 Governor-declared disasters totaled \$164.1 million.
- For all 125 weather-related disasters, the emergency and public utility costs totaled \$405.0 million and averaged \$67.5 million over six years.
- The bill exempts out-of-state companies and workers from specific license, fee, and tax payments. For this fiscal estimate, only the business profits and individual income tax impacts are considered.
- Of the annual \$67.5 million in repair payments, 10.0% is assumed to be business profits and 40.0% is assumed to be paid in employee wages. The average tax rate on business profits is assumed to be 6.0% and the average income tax rate on employee wages is assumed to be 4.5%. Combined, these assumptions yield annual projected General Fund tax revenue of \$1.6 million per year.
- As discussed above in the background section, the FEMA database has limitations for this analysis. To adjust for the combined impact of the following unknowns, the amount of General Fund revenue associated with out-of-state companies and workers is assumed to equal 20.0% of the \$1.6 million in General Fund revenue (\$324,000).
 - The FEMA database does not include the cost of public utility repairs covered by insurance. Business profits and employee wages of out-of-state repair companies paid through insurance will also be exempt from Iowa tax under the provisions of the bill.
 - The FEMA database does not include the cost to repair critical infrastructure owned and maintained by private companies (i.e., utility companies). Business profits and employee wages of out-of-state repair companies will also be exempt from tax under the provisions of the bill.
 - Not all of the costs included as emergency work is repair to critical infrastructure as defined in the bill. Repairs to non-critical infrastructure are not covered by the bill. Approximately 36.1% of the cost used in the estimate is defined as emergency work.
 - The public infrastructure costs used in the estimate likely extend past a period of time equal to 60 days after the end of the declared disaster, so some portion of the 63.9% in public utility repair costs represents longer-term repair work and is not covered by the bill.
 - It is not known what percentage of repair work is performed by out-of-state companies and workers and what percentage is performed by in-state companies and workers. In-state companies and workers repairing critical infrastructure are not provided the income tax exemption under this bill and will remain subject to business and individual income tax.

- Neither the number nor severity of weather-related disasters in future years is predictable. Using the assumptions above, the previous six years generates the following fiscal impacts based only on that year's declared disasters:
 - 2010 – \$967,000
 - 2011 – \$456,000
 - 2012 – \$14,000
 - 2013 – \$205,000
 - 2014 – \$236,000
 - 2015 – \$66,000
- The bill is effective on enactment and applies to disasters declared after that date. Assuming an enactment date of May 1, 2016, 58.3% of calendar year 2016 will remain.
- Calendar year impacts are assumed to be fiscal year impacts through the filing of tax returns in the spring following the end of the calendar year.

Fiscal Impact

The bill exempts out-of-state companies and workers with insufficient other tax nexus from state-imposed fees, licenses, and taxes for work performed during a specified time period associated with an emergency declaration by the Governor or the President. The work performed must be related to defined critical infrastructure. Based on the above stated assumptions, the projected impact on General Fund revenue of the tax exemption is a revenue reduction of \$189,000 in FY 2017 and \$324,000 in FY 2018 and future fiscal years.

Sources

Department of Revenue
Federal Emergency Management Agency (FEMA) data
Department of Homeland Security and Emergency Management data
Legislative Services Agency analysis

/s/ Holly M. Lyons

March 28, 2016

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
