

MAR 15 2005
Place On Calendar

HOUSE FILE 786
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 241)

Passed House, Date 3-22-05 Passed Senate, Date _____
Vote: Ayes 98 Nays 0, Vote: Ayes _____ Nays _____
Approved 5/12/05

A BILL FOR

1 An Act relating to the operating or providing of another business
2 or activity in a health care facility.

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

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HOUSE FILE 786

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H-1120

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1 Amend House File 786 as follows:

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2 1. By striking page 1, line 33 through page 2,

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3 line 2, and inserting the following: "health care
4 facility. For the purposes of this section, "another

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5 business or activity" shall not include laboratory

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6 services with the exception of laboratory services for

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7 which a waiver from regulatory oversight has been

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8 obtained under the federal Clinical Laboratory

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9 Improvement Amendments of 1988, Pub. L. No. 100-578,

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10 as amended, radiological services, anesthesiology

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11 services, obstetrical services, surgical services, or

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12 emergency room services provided by hospitals licensed

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13 under chapter 135B."

By CARROLL of Poweshiek
WENDT of Woodbury

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H-1120 FILED MARCH 21, 2005

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HF 786

1 Section 1. Section 135C.5, Code 2005, is amended to read
2 as follows:

3 135C.5 LIMITATIONS ON USE.

4 Another business or activity serving persons other than the
5 residents of a health care facility shall-not may be carried
6 on-in-a-health-care-facility, or-in operated or provided in a
7 designated part of the same physical structure with-a of the
8 health care facility, unless-such-business-or-activity-is
9 under-the-control-of-and-is-directly-related-to-and-incidental
10 to-the-operation-of-the-health-care-facility-or-unless-the
11 business-or-activity-is-approved-by-the-department-and-the
12 state-fire-marshala if the other business or activity meets the
13 requirements of applicable state and federal laws,
14 administrative rules, and federal regulations. A The
15 department shall not limit the ability of a health care
16 facility to operate or provide another business or activity
17 which-is-operated-within-the-limitations-of-this-section-shall
18 in the designated part of the facility if the business or
19 activity does not interfere in-any-manner with the use of the
20 facility by the residents or with the services provided to the
21 residents, and shall is not be disturbing to them the
22 residents. In denying the ability of a health care facility
23 to operate or provide another business or activity under this
24 section, the burden of proof shall be on the department to
25 demonstrate that the other business or activity substantially
26 interferes with the use of the facility by the residents or
27 the services provided to the residents, or is disturbing to
28 the residents. The department-and-the state fire marshal, in
29 accordance with chapter 17A, shall adopt rules which establish
30 criteria for approval of a business or activity to be carried
31 on-in-a-health-care-facility-or operated or provided in a
32 designated part of the same physical structure with of a
33 health care facility. For the purposes of this section,
34 "another business or activity" shall not include laboratory,
35 radiological, anesthesiology, obstetrical, surgical, or

1 emergency services provided by hospitals licensed under
2 chapter 135B.

3 EXPLANATION

4 This bill allows a health care facility to operate or
5 provide another business or activity, serving persons other
6 than the residents of the health care facility, in a
7 designated part of the physical structure of the health care
8 facility, if the other business or activity meets the
9 requirements of applicable state and federal laws,
10 administrative rules, and federal regulations. The bill
11 prohibits the department of inspections and appeals from
12 limiting the ability of a health care facility to operate or
13 provide another business or activity in the designated part of
14 the facility if the business or activity does not interfere
15 with the use of the facility by the residents or with the
16 services provided to the residents, and is not disturbing to
17 the residents. In denying the ability of a health care
18 facility to operate or provide another business or activity in
19 the physical structure of the health care facility, the burden
20 of proof is on the department to demonstrate that the business
21 or activity substantially interferes with the use of the
22 facility by, or the services provided to, the residents, or is
23 disturbing to the residents. The bill also directs the state
24 fire marshal to adopt rules to establish criteria for approval
25 of a business or activity to be operated or provided in a
26 designated part of the physical structure of a health care
27 facility.

28 The bill provides that "another business or activity" shall
29 not include laboratory, radiological, anesthesiology,
30 obstetrical, surgical, or emergency services provided by
31 licensed hospitals.

32 Current law provides that another business or activity is
33 prohibited from being carried on in the health care facility
34 or in the same physical structure as the health care facility
35 unless the business or activity is under the control of and is

1 directly related and incidental to, the operation of the
2 health care facility, or unless the department of inspections
3 and appeals and the state fire marshal approve the business or
4 activity. Current law does not specify that the population
5 served by the business or activity is persons other than
6 residents of the facility. Current law also directs the
7 department of inspections and appeals and the state fire
8 marshal to adopt rules to establish criteria for approval of a
9 business or activity being carried on in a health care
10 facility or the same physical structure with a health care
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HOUSE FILE 786
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 241)

(As Amended and Passed by the House March 22, 2005)

Passed House, Date _____ Passed Senate, Date 3-29-05
Vote: Ayes _____ Nays _____ Vote: Ayes 50 Nays 0
Approved _____

A BILL FOR

1 An Act relating to the operating or providing of another business
2 or activity in a health care facility.

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

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House Amendments _____

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1 Section 1. Section 135C.5, Code 2005, is amended to read
2 as follows:

3 135C.5 LIMITATIONS ON USE.

4 Another business or activity servicing persons other than the
5 residents of a health care facility shall not may be carried
6 on-in-a-health-care-facility, or in operated or provided in a
7 designated part of the same physical structure with-a of the
8 health care facility, unless-such-business-or-activity-is
9 under-the-control-of-and-is-directly-related-to-and-incidental
10 to-the-operation-of-the-health-care-facility-or-unless-the
11 business-or-activity-is-approved-by-the-department-and-the
12 state-fire-marshal if the other business or activity meets the
13 requirements of applicable state and federal laws,
14 administrative rules, and federal regulations. A The
15 department shall not limit the ability of a health care
16 facility to operate or provide another business or activity
17 which-is-operated-within-the-limitations-of-this-section-shall
18 in the designated part of the facility if the business or
19 activity does not interfere in-any-manner with the use of the
20 facility by the residents or with the services provided to the
21 residents, and shall is not be disturbing to them the
22 residents. In denying the ability of a health care facility
23 to operate or provide another business or activity under this
24 section, the burden of proof shall be on the department to
25 demonstrate that the other business or activity substantially
26 interferes with the use of the facility by the residents or
27 the services provided to the residents, or is disturbing to
28 the residents. The department-and-the state fire marshal, in
29 accordance with chapter 17A, shall adopt rules which establish
30 criteria for approval of a business or activity to be carried
31 on-in-a-health-care-facility-or operated or provided in a
32 designated part of the same physical structure with of a
33 health care facility. For the purposes of this section,
34 "another business or activity" shall not include laboratory
35 services with the exception of laboratory services for which a

1 waiver from regulatory oversight has been obtained under the
2 federal Clinical Laboratory Improvement Amendments of 1988,
3 Pub. L. No. 100-578, as amended, radiological services,
4 anesthesiology services, obstetrical services, surgical
5 services, or emergency room services provided by hospitals
6 licensed under chapter 135B.

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*Carroll
Freeman
Wendt*

F 0786

HSB 241

HUMAN RESOURCES

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON UPMEYER)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the providing of another business or activity
2 in a health care facility.

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

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1 Section 1. Section 135C.5, Code 2005, is amended to read
2 as follows:

3 135C.5 LIMITATIONS ON USE.

4 Another business or activity servicing persons other than the
5 residents of a health care facility shall-not may be carried
6 on-in-a-health-care-facility,-or-in provided in a designated
7 part of the same physical structure with-a of the health care
8 facility, unless-such-business-or-activity-is-under-the
9 control-of-and-is-directly-related-to-and-incidental-to-the
10 operation-of-the-health-care-facility-or-unless-the-business
11 or-activity-is-approved-by-the-department-and-the-state-fire
12 marshal if the other business or activity meets the
13 requirements of applicable state and federal laws,
14 administrative rules, and federal regulations. A The
15 department shall not limit the ability of a health care
16 facility to provide another business or activity which-is
17 operated-within-the-limitations-of-this-section-shall in the
18 designated part of the facility if the business or activity
19 does not interfere in-any-manner with the use of the facility
20 by the residents or with the services provided to the
21 residents, and shall is not be disturbing to them the
22 residents. In denying the ability of a health care facility
23 to provide another business or activity under this section,
24 the burden of proof shall be on the department to demonstrate
25 that the other business or activity substantially interferes
26 with the use of the facility by the residents or the services
27 provided to the residents, or is disturbing to the residents.
28 The department-and-the state fire marshal, in accordance with
29 chapter 17A, shall adopt rules which establish criteria for
30 approval of a business or activity to be carried-on-in-a
31 health-care-facility-or provided in a designated part of the
32 same physical structure with of a health care facility.

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EXPLANATION

34 This bill allows a health care facility to provide another
35 business or activity, servicing persons other than the residents

1 of the health care facility, in a designated part of the
2 physical structure of the health care facility, if the other
3 business or activity meets the requirements of applicable
4 state and federal laws, administrative rules, and federal
5 regulations. The bill prohibits the department of inspections
6 and appeals from limiting the ability of a health care
7 facility to provide another business or activity in the
8 designated part of the facility if the business or activity
9 does not interfere with the use of the facility by the
10 residents or with the services provided to the residents, and
11 is not disturbing to the residents. In denying the ability of
12 a health care facility to provide another business or activity
13 in the physical structure of the health care facility, the
14 burden of proof is on the department to demonstrate that the
15 business or activity substantially interferes with the use of
16 the facility by, or the services provided to, the residents,
17 or is disturbing to the residents. The bill also directs the
18 state fire marshal to adopt rules to establish criteria for
19 approval of a business or activity to be provided in a
20 designated part of the physical structure of a health care
21 facility.

22 Current law provides that another business or activity is
23 prohibited from being carried on in the health care facility
24 or in the same physical structure as the health care facility
25 unless the business or activity is under the control of and is
26 directly related and incidental to, the operation of the
27 health care facility, or unless the department of inspections
28 and appeals and the state fire marshal approve the business or
29 activity. Current law does not specify that the population
30 served by the business or activity is persons other than
31 residents of the facility. Current law also directs the
32 department of inspections and appeals and the state fire
33 marshal to adopt rules to establish criteria for approval of a
34 business or activity being carried on in a health care
35 facility or the same physical structure with a health care

S.F. _____ H.F. _____

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HOUSE FILE 786

AN ACT

RELATING TO THE OPERATING OR PROVIDING OF ANOTHER BUSINESS OR
ACTIVITY IN A HEALTH CARE FACILITY.

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

Section 1. Section 135C.5, Code 2005, is amended to read
as follows:

135C.5 LIMITATIONS ON USE.

Another business or activity serving persons other than the residents of a health care facility ~~shall not may be carried on-in-a-health-care-facility,-or-in~~ operated or provided in a designated part of the same physical structure with a of the health care facility, unless such business or activity is under the control of and is directly related to and incidental to the operation of the health care facility or unless the business or activity is approved by the department and the state fire marshal if the other business or activity meets the requirements of applicable state and federal laws, administrative rules, and federal regulations. A The department shall not limit the ability of a health care facility to operate or provide another business or activity which is operated within the limitations of this section shall in the designated part of the facility if the business or activity does not interfere in any manner with the use of the facility by the residents or with the services provided to the residents, and shall is not be disturbing to them the residents. In denying the ability of a health care facility to operate or provide another business or activity under this section, the burden of proof shall be on the department to demonstrate that the other business or activity substantially interferes with the use of the facility by the residents or the services provided to the residents, or is disturbing to the residents. The ~~department and the~~ state fire marshal, in

accordance with chapter 17A, shall adopt rules which establish criteria for approval of a business or activity to be carried on-in-a-health-care-facility-or operated or provided in a designated part of the same physical structure with of a health care facility. For the purposes of this section, "another business or activity" shall not include laboratory services with the exception of laboratory services for which a waiver from regulatory oversight has been obtained under the federal Clinical Laboratory Improvement Amendments of 1988, Pub. L. No. 100-578, as amended, radiological services, anesthesiology services, obstetrical services, surgical services, or emergency room services provided by hospitals licensed under chapter 135B.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 786, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 5/12, 2005

THOMAS J. VILSACK
Governor